

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CALIFORNIA AIR RESOURCES BOARD,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, NATIONAL
HIGHWAY TRAFFIC SAFETY
ADMINISTRATION,

Defendants.

Civil Action No.: 1:19-cv-00965-CKK

DECLARATION OF M. ELAINE MECKENSTOCK

I, M. Elaine Meckenstock, declare, based on personal knowledge, that:

1. Attached as Exhibit 1 is a true and correct copy of EPA's letter responding to part 12 of CARB's FOIA request. This letter was attached to an email received from April Seabrook, counsel for Defendant Agencies, on August 7, 2019 at 1:31 PM.

2. Attached as Exhibit 1 is a true and correct copy of EPA's letter responding to parts 1-11 of CARB's FOIA request. This letter was attached to an email received from April Seabrook, counsel for Defendant Agencies, on August 16, 2019 at 2:16 PM.

3. Attached as Exhibit 3 is a true and correct copy of an email I received from April Seabrook, counsel for Defendant Agencies, on July 10, 2019 at 12:23 PM.

4. Attached as Exhibit 4 is a true and correct copy of an email I sent to April Seabrook, counsel for Defendant Agencies, on July 15, 2019 at 9:13 AM.

5. Attached as Exhibit 5 is a true and correct copy of an email I received from April Seabrook, counsel for Defendant Agencies, on July 15, 2019 at 10:46 AM.

6. Attached as Exhibit 6 is a true and correct copy of an email I sent to April Seabrook, counsel for Defendant Agencies, on July 22, 2019 at 1:00 PM.

7. Attached as Exhibit 7 is a true and correct copy of an email my colleague, Ryan Hoffman, sent to April Seabrook, counsel for Defendant Agencies, on August 6, 2019 at 11:25 AM. I was copied on this email.

8. Attached as Exhibit 8 is a true and correct copy of an email I received from April Seabrook, counsel for Defendant Agencies, on August 15, 2019 at 12:17 PM.

9. Attached as Exhibit 9 is a true and correct copy of an email received by my colleague, Ryan Hoffman, from April Seabrook, counsel for Defendant Agencies, on September 18, 2019 at 3:31 PM.

10. Attached as Exhibit 10 is a true and correct copy of an email I received from April Seabrook, counsel for Defendant Agencies, on July 15, 2019 at 2:38 PM.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 3, 2019 in Oakland, California.



M. Elaine Meckenstock
Deputy Attorney General, CA SBN 268861
California Department of Justice
1515 Clay Street, 20th Floor
Oakland, CA 94612-1492
(510) 879-0299

EXHIBIT 1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

August 7, 2019

OFFICE OF
AIR AND RADIATION

Ms. Ellen M. Peter
California Air Resources Board
1001 I Street PO Box 2815
Sacramento, California 95812

Re: Freedom of Information Act Request No. EPA-HQ-2018-011521, Interim Response

Dear Ms. Peter:

This letter is in reference to your Freedom of Information Act (FOIA) request received by the U.S. Environmental Protection Agency (EPA or Agency) on September 17, 2018, in which Part 12 of your request sought records relating to EPA's ALPHA and OMEGA Models. On April 5, 2019, the California Air Resources Board (CARB) filed a complaint in the District Court for the District of Columbia relating to this FOIA request.

The Office of Transportation and Air Quality (OTAQ) completed its search and now concludes its response to Part 12 of your request. EPA is releasing in full all the latest available input files for the latest full version of the OMEGA model and is also releasing the latest available ALPHA inputs, including EPA benchmarking data. Other EPA benchmarking test data packages are posted on the EPA website at <https://www.epa.gov/vehicle-and-fuel-emissions-testing/benchmarking-advanced-low-emission-light-duty-vehicle-technology#test-data>. In addition, EPA is releasing in full the most recent fully updated OMEGA pre-processors and post-processors that correspond to the "Technology and Benefit-Cost Analysis Files," and the updated OMEGA "Machine" tool. EPA is withholding the latest full version of the ALPHA and OMEGA models themselves pursuant to 5 U.S.C. § 552(b)(5), the deliberative process privilege. The models are exempt from disclosure because they are predecisional and deliberative and would harm agency decision-making if released.

If you have any questions concerning this response, please contact April Seabrook, Assistant United States Attorney, at 202-815-9024.

Sincerely,

A handwritten signature in black ink that reads "Ben Hengst" followed by a stylized flourish.

Benjamin Hengst
Associate Director
Office of Transportation and Air Quality

EXHIBIT 2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 16, 2019

Ellen M. Peter
California Air Resources Board
1001 I Street PO Box 2815
Sacramento, CA 95812

Re: Freedom of Information Act Request No. EPA-HQ-2018-011521, Final Response

Dear Ms. Peter:

This letter is in reference to your Freedom of Information Act (FOIA) request received by the U.S. Environmental Protection Agency (EPA or Agency) on September 17, 2018, in which Parts 1-11 of your request sought records relating to EPA and NHTSA's joint proposed rulemaking for light-duty vehicles. On April 5, 2019, the California Air Resources Board (CARB) filed a complaint in the District Court for the District of Columbia relating to this FOIA request.

The Office of Transportation and Air Quality (OTAQ) completed its search and now concludes its response to Parts 1-11 of your request. EPA is releasing in full a number of records responsive to the request, including R-scripts, a report from Anders Lie, coefficients for the dynamic fleet share equation, and the Annual Societal Effects Report. Two records are being released in part and have the relevant FOIA exemptions marked. One record is being withheld in full pursuant to 5 U.S.C. § 552(b)(5), the Deliberative Process Privilege: a draft, pre-decisional version of a spreadsheet entitled "Electrification Technology Description," a final version of which is included in the publicly available Preliminary Regulatory Impact Analysis (PRIA) at page 377.

If you have any questions concerning this response, please contact April Seabrook,
Assistant United States Attorney, at 202- 815-9024.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Hengst", with a stylized flourish at the end.

Benjamin Hengst
Associate Director
Office of Transportation and Air Quality
Office of Air and Radiation

EXHIBIT 3

From: [Seabrook, April \(USADC\)](#)
To: [Ryan R. Hoffman](#)
Cc: [Elaine Meckenstock](#)
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)
Date: Wednesday, July 10, 2019 12:22:42 PM

Hi Ryan:

Does 3:00 pm EST work for you? If so, please send me a meeting invitation/request to block out the time on my calendar.

Also, I have some additional information for you with respect to the three parts of the FOIA request your email stated NHTSA had not responded to, specifically, parts 1, 4, and 12:

- Part 1: NHTSA has completed its production of documents.
- Parts 4 and 12: NHTSA reports that it has no records.

Thank you,
 ~ April D.S.

APRIL DENISE SEABROOK
 Assistant United States Attorney
Office: (202) 252-2525
Cell: (202) 815-9024
April.Seabrook@usdoj.gov

From: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov>
Sent: Wednesday, July 10, 2019 3:16 PM
To: Seabrook, April (USADC) <ASEABROOK@usa.doj.gov>
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov>
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

April,
 We are still reviewing your email and hope to have a further substantive response and possibly questions to you tomorrow morning. In the meantime, we wanted to get back to you about scheduling a time for a phone call. We are available starting at 12:00 PST / 3:00 EST on Friday. When would work for you?

Ryan Hoffman
 Deputy Attorney General
 Natural Resources Law Section
 California Department of Justice
 455 Golden Gate Avenue, Suite 11000
 San Francisco, CA 94102
 Tel: (415) 510-4448
 Fax: (415) 703-5480

Email: Ryan.Hoffman@doj.ca.gov

From: Seabrook, April (USADC) <April.Seabrook@usdoj.gov>

Sent: Monday, July 08, 2019 12:49 PM

To: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov>

Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov>

Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

Ryan:

Thank you for your detailed email. I have responded to your points as well as included some additional information and questions.

- **Regarding your requests and the Vaughn index:**

Neither the productions nor the Vaughn indexes will be done on the dates you propose. Those dates are unreasonable because they fail to provide sufficient time for all of the work that it takes to complete these tasks.

While I recognize that the Court asked about a Vaughn index, this is a standards request for information and does not necessitate that the Vaughn index be completed by a certain date. In the normal course of FOIA litigation, agencies are not required to produce a Vaughn index until they submit their summary judgment briefing. It should also be noted that preparing a Vaughn index of all withholdings is a highly inefficient, incredibly time-consuming process, and a waste of already scarce resources and, for those reasons, it is not done unless the Plaintiff is challenging every single withholding.

Has CARB looked at the produced documents and determined that it needs to challenge every withholding? If not, then it probably makes more sense for the parties to confer about what withholdings are being challenged, as the more withholdings being challenged, the longer it takes to prepare the Vaughn index.

- **Regarding EPA's processing of the request Parts 1-11:**

EPA has advised me that any records it has from Parts 1-11 of the FOIA request would be records that were derived from NHTSA. As such, these records would be duplicative of anything that obtained from NHTSA. Moreover, to the extent that EPA searches for and locates any records derived from NHTSA, those records would then be sent to NHTSA for processing and production determinations; they would not be produced by EPA. Additionally, conducting a search for all records responsive to parts 1-11 will take several additional months. Please clarify whether CARB still wants EPA to conduct a search for these documents that have derived from NHTSA.

- **Regarding EPA's processing of the request Part 12:**

EPA has advised me that, for Part 12 of the request, it can produce all non-exempt portions of responsive records within the next 30 days.

- **NHTSA**

I am waiting on some information regarding NHTSA and will provide that information when I

receive it.

- **Call to Discuss**

I am not available at 4:00 pm EST for a call regarding this case. I can have a call on Thursday at 1:00pm EST or sometime on Friday.

Thank you,
~ April D.S.

APRIL DENISE SEABROOK
Assistant United States Attorney
Office: (202) 252-2525 | Cell: (202) 815-9024
April.Seabrook@usdoj.gov

-----Original Message-----

From: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov>
Sent: Friday, July 5, 2019 4:35 PM
To: Seabrook, April (USADC) <ASEABROOK@usa.doj.gov>
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov>
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

April,
Thank you for the update. To facilitate our meet-and-confer next week, and your discussions with your clients, we wanted to share with you what we intended to discuss by phone this week.

First, CARB requests responses to all outstanding requests (from EPA, responses to all 12 requests, and from NHTSA, responses to requests 1, 4, and 12) by Friday, July 12th. These responses should comply with the agencies' FOIA obligations, including at a minimum: 1) whether each agency has records responsive to each request; and 2) whether each agency intends to withhold any of those records and the basis for any such withholding. As you are aware, our client was entitled to these responses within 20 days of receipt of the requests. It has now been almost 10 months; our client has not received the responses to which it is entitled, and the answer to CARB's complaint neither provided these responses nor any explanation for withholding them. Given how much time has already elapsed, the statutory deadline your clients failed to meet, and the specific nature of the requests at issue, we believe that this request is more than reasonable.

Second, CARB requests a Vaughn index of any responsive records your clients are withholding, including records for which NHTSA has already asserted FOIA exemptions and any records for which your clients assert exemptions as part of the required responses described above. As you are aware, the Court's meet-and-confer order asked whether such an index will be required. It will, and we believe that asking your clients to provide that index by Friday, July 19th is reasonable, again given the specific nature of the requests at issue, the likely small number of records, and the length of time your clients have been in possession of

the requests.

Third, the Court's order also asked whether an Open America stay is likely to be requested in this case. We do not believe any stay could possibly be warranted here, given, again, the length of time that has already transpired since the requests were received, the specific nature of the requests, and the likely small number of records involved.

We propose a call on Tuesday, July 9 at 1:00 PM PST / 4:00 PM EST to discuss the above, and any other issues. Please let us know if you are available. Thank you, and have a good weekend.

Ryan Hoffman
Deputy Attorney General
Natural Resources Law Section
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Tel: (415) 510-4448
Fax: (415) 703-5480
Email: Ryan.Hoffman@doj.ca.gov

-----Original Message-----

From: Seabrook, April (USADC) <April.Seabrook@usdoj.gov>
Sent: Thursday, July 04, 2019 8:10 PM
To: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov>
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov>
Subject: Re: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

I will be back in the office early next week. We can confer when I return and have a status update from each agency regarding the processing of the request.
- April DS

April Denise Seabrook
Assistant U.S. Attorney
Office: 202-252-2525
Cell: 202-815-9024

On Jun 28, 2019, at 6:56 PM, Ryan R. Hoffman
<Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>> wrote:

Good afternoon April,
Per the Court's order of June 19th, we are to meet and confer regarding "the status of Plaintiffs' FOIA request, the anticipated number of documents responsive to Plaintiffs' FOIA request, the anticipated date(s) for release of the documents requested by Plaintiffs, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, etc." to enable the parties to file a Joint Status Report by July 16th.

We propose a phone call on Tuesday July 2nd next week, and are available from 9:00am PST / 12:00pm EST to approximately 12:00pm PST / 3:00pm EST. We are also generally available Wednesday July 3rd.

Thank you.

Ryan Hoffman
Deputy Attorney General
Natural Resources Law Section
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Tel: (415) 510-4448
Fax: (415) 703-5480
Email: Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>

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EXHIBIT 4

From: Elaine Meckenstock
To: "Seabrook, April (USADC)"; Ryan R. Hoffman
Subject: continuing meet and confer
Date: Monday, July 15, 2019 9:13:00 AM

Dear April,

Thank you for speaking with us on Friday. We look forward to receiving EPA's determination as to whether or not it has any responsive records for requests 1-11. We hope to receive that today (Monday), given the need to file the joint statement tomorrow (Tuesday). We also look forward to your confirmation that EPA will provide, on or before August 7, 2019, all non-exempt records responsive to request 12, along with some information about any records withheld, including the exemptions asserted and justifications for those exemptions, the number of withheld records, and some description of the records that would enable CARB to understand what is being withheld and why. We understand EPA would not be providing a withholding index at that time. Having consulted further with CARB, we also want to confirm that EPA has asked for 30 days to produce the records responsive to request 12 because EPA has determined that it will produce records beyond those it already produced to others in NRDC v. EPA, Case No. 1:18-cv-11227, S.D.N.Y. If EPA intends to produce only those records it has already produced, CARB does not understand why that would take 30 days.

Thank you also for providing the draft joint statement. We will be sending that to you later today with some suggested edits. One issue I want to flag now is that we are going to propose a briefing schedule for a motion for partial summary judgment. It is possible that our ongoing meet and confer will resolve some of the more pressing issues—such as EPA's lack of response to parts 1-11 and the questions CARB has about NHTSA's withholding under request 8 (see below). But these, which are not an exclusive list, are pressing concerns for CARB, and it is unwilling to wait until a month from now to set a briefing schedule to resolve them, should motion practice be necessary.

With regard to NHTSA, thank you for your Friday email informing CARB that NHTSA was withholding four records and your July 10 email providing NHTSA's determination that it has no records responsive to requests 4 and 12 and no additional records responsive to request 1. As I mentioned on our call, CARB has some additional questions and ongoing concerns about NHTSA's responses. An initial set of questions and requests for explanations is below. The first two sets of bullets reflect requests for which NHTSA has asserted exemptions; the latter two concern requests where CARB has questions about NHTSA's search for responsive records. I should note that the omission of any request from these lists should not be understood as CARB's satisfaction with NHTSA's response. CARB is still reviewing and considering all of NHTSA's responses, except, as we indicated on the call, the response to request 12.

Requests 2 & 9:

- We understand your July 12 email to indicate that NHTSA is withholding only one record (one data file) each for requests 2 and 9. Is that correct?
- Assuming that's correct, are the records the data files NHTSA purchased as they were purchased? Did NHTSA aggregate or otherwise modify the data it purchased (which we would assume would create additional records)?

- What else can NHTSA tell us about these two records to help CARB understand why there is only one file that is responsive to each request?
- Did NHTSA's purchase of these data include the option to make the data (or aggregations/modifications thereof) public?

Request 8

- We understand your July 12 email to indicate that NHTSA is withholding two records which it is referring to as "draft reports". Is that correct?
- CARB does not understand how the records it asked for in Request 8 could be exempt from disclosure under Exemption 5 (or any other exemption). The request is for the analysis that is summarized in section 11.4 of the PRIA. Given that NHTSA summarized and relied on this analysis as part of a notice of proposed rulemaking, CARB cannot understand NHTSA's claim that the analysis is exempt from public disclosure. *See, e.g., Am. Radio Relay League, Inc. v. F.C.C.*, 524 F.3d 227, 236 (D.C. Cir. 2008) ("Under APA notice and comment requirements, [a]mong the information that must be revealed for public evaluation are the 'technical studies and data' upon which the agency relies [in its rulemaking].") (internal quotations omitted); *see also id.* at 238 (also rejecting "FOIA's deliberative process privilege" for such studies and data). Given NHTSA's reliance on this analysis and the technical nature of the analysis, please explain why NHTSA believes the detailed analysis summarized in section 11.4 of the PRIA is exempt from disclosure under Exemption 5.
- Please also explain what deliberative process is involved, the role the withheld documents play in that process, and how the documents reflect the give-and-take of the consultative process.
- Please also explain why NHTSA believes it can withhold the analysis described and summarized in section 11.4 of the PRIA, given NHTSA's adoption, discussion, and use of that analysis. *See, e.g., Horowitz v. Peace Corps*, 428 F.3d 271, 276 (D.C. Cir. 2005) ("Finally, even if the document is predecisional at the time it is prepared, it can lose that status if it is adopted, formally or informally, as the agency position on an issue or is used by the agency in its dealings with the public." (quoting *Coastal States Gas Corp. v. Dep't of Energy*, 617 F.2d 854, 866 (D.C. Cir.1980))).

Request 1

- In your July 10 email, you indicated that NHTSA has completed its production as to this request. CARB does not understand how the responsive records could be limited to those it has received so far, and has the following questions/requests:
 - What search did NHTSA undertake to locate records containing "information about the models and data used to estimate battery costs for electrified vehicles"? How and where did NHTSA search for records that analyze models, versions of models, and data covered by this request or records that refer to or describe models, versions of models, or data covered by this request? How and where did NHTSA search for records that discuss, describe, or refer to the version of BatPAC used in the NPRM and related documents (including the PRIA)?
 - The battery pack configurations described in request 1(b) are necessary inputs to the BatPac model. Put another way, it appears the model will not run without battery pack configurations. CARB therefore does not understand NHTSA's response to this

request—that “there are no battery pack configurations.” Was NHTSA somehow able to run the BatPac model without battery pack configurations? Is there another explanation for why NHTSA claims not to have these configurations? Does NHTSA understand CARB to be seeking information here about something other than essential inputs to the BatPac model?

- What search did NHTSA undertake to locate records containing information about the battery chemistries it considered as part of the NPRM/PRIA (request 1(c))?

Request 4

- How did NHTSA determine that it has no records responsive to request 4?
- One explanation for NHTSA having no responsive records for request 4 is that NHTSA did not do any statistical analysis or evaluation of the ARDL (new sales) model on which it relied in the NPRM. Is that correct? Or does NHTSA understand request 4 not to cover such analysis/evaluation?

Best,
Elaine

EXHIBIT 5

From: Seabrook, April (USADC)
To: Ryan R. Hoffman
Cc: Elaine Meckenstock
Subject: Re: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)
Date: Monday, July 15, 2019 10:46:11 AM

Ryan:

In response to the questions in your email below:

Yes, EPA does have at least a few documents responsive to parts 1-11 of the FOIA request--but after doing a preliminary search, all of those documents were either 1) publicly posted to the docket by NHTSA or 2) in NHTSA's initial FOIA response to CARB.

1) Yes, EPA has done a preliminary search--basically, reaching out individually to the custodians who would have responsive records in their possession and asking what they have. EPA continues to refine that search as communications with P continue (for example, CARB asked about two specific parts of the request below, and Agency counsel spoke to someone today to see more specifically if there was anything responsive to those. That is a consistent position.

2) Again, based on the preliminary search: In response to the specific questions = Part 1 does not seek general information about battery costs, it seeks information very specific to the SAFE vehicles rule (see 1.a., 1.b., and 1.c.). NHTSA conducted the specific battery cost analyses that CARB's FOIA is seeking information about. After a preliminary search, EPA did not uncover any additional records beyond those posted publicly to the docket or in NHTSA's initial response to CARB. The same is true for Part 8 in regards to the "point estimates."

3) If CARB wishes EPA to conduct a more systematic search beyond asking specific custodians, including an Outlook-based search, it would require development of search terms, running the search through our eDiscovery system, and processing and reviewing large numbers of unresponsive documents, which would take at least several months.

-April

April Denise Seabrook
 Assistant U.S. Attorney
 Office: 202-252-2525
 Cell: 202-815-9024

On Jul 11, 2019, at 12:55 PM, Ryan R. Hoffman
 <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>> wrote:

April,

Thank you for your emails of July 8 and 10. We look forward to talking with you on Friday. In the meantime, we wanted to respond to the substance of your July 8 email. We are still considering your July 10 email.

First, as to EPA's indication that it can produce all non-exempt portions of records responsive to request 12 within 30 days of your July 8 email, CARB is willing to agree to that schedule, provided the response it receives on or before August 7, 2019 includes not only all non-exempt, responsive records (or portions thereof) but also a description of records withheld and the justification for that withholding. As you and EPA are aware, request 12 is quite specific, and EPA has now had 10 months to provide this information. Please confirm that EPA is willing to agree to this.

Second, in response to your question whether CARB "needs to challenge every withholding," at the moment our

answer would have to be yes. CARB has received no information about the records NHTSA is withholding or the basis for the withholding. Notably, NHTSA's answer shed no light on the basis for these withholdings as NHTSA summarily denied nearly every allegation in CARB's complaint, including those relating to the asserted exemptions. If NHTSA is willing to provide further information, we may be able to narrow the scope of a future summary judgment motion and/or Vaughn index, but, at the moment, CARB is entirely in the dark and has no information or other basis on which it could accept NHTSA's assertions.

Specifically, with respect to requests 2 and 9, CARB does not know, for example, the terms of any purchase agreement to acquire the data; the scope and results of the modifications and/or aggregations NHTSA made to the data; or what efforts, if any, NHTSA made to segregate. Similarly, with respect to request 8, CARB noted in its complaint that it is unaware of any basis for the application of the asserted exemption, including the fact that similar analyses have been disclosed by these agencies in the past. See Complaint at ¶¶ 97-99. NHTSA's answer shed no light on the basis for the exemption.

As to the time it would take to prepare a Vaughn index, we note that the three requests for which exemptions have, to date, been asserted are very targeted. CARB believes the number of records at issue is quite small, and, given that NHTSA must have already identified the records in order to assert exemptions for them, we do not understand how preparation of a Vaughn index would be time-consuming here. We thus reiterate that CARB needs to receive sufficient information about the records withheld and the basis for the withholding—whether in the form of a Vaughn index or otherwise—to understand NHTSA's position. We had hoped to receive this information before the parties have to file their joint statement, as the basis for the asserted exemptions is obviously highly relevant to the next steps in the litigation. Please advise what information NHTSA is willing to provide in this regard, and by when.

Third, given your July 10 email indicating that NHTSA has no records responsive to request 4, and your July 8 email indicating EPA's position on requests 1-11, is it now EPA's position that it likewise has no records responsive to request 4?

Fourth, in response to your request that we clarify "whether CARB still wants EPA to conduct a search for [records responsive to requests 1-11]," we do not understand how it can be at all unclear what CARB wants, as an initial matter, from EPA with respect to these requests. In CARB's December 19, 2018 letter to EPA and NHTSA, CARB expressly complained about EPA's failure to "even make a timely FOIA determination" as to whether it has responsive records. Exhibit D to Complaint at p. 3. CARB reiterated this in multiple places in its complaint, expressly seeking this determination. Complaint at ¶¶ 3, 30, 139-142, 151-153. I then reiterated this request in my email to you of July 5, 2019. Again, CARB is asking whether EPA has any records responsive to requests part 1-11 and, if it does, whether EPA intends to withhold any of those records and on what grounds. EPA's refusal to answer these basic questions violates both the letter and the spirit of FOIA, and we ask, again, that EPA answer them.

Rather than provide this determination as required by FOIA, EPA has made a series of statements that contradict each other and seem designed to obfuscate whether EPA has taken any action at all with respect to requests 1-11 and whether EPA has any responsive records. For example, in your July 8 email, EPA refuses to indicate whether or not it has responsive records and indicates it would take months to conduct a search, while simultaneously asserting that it knows enough about the records in (or not in) its possession to purport to assure CARB that any records it might (or might not) have would be duplicative of records NHTSA has. Notably, in its answer, EPA claimed that its "review and processing of records responsive to" CARB's request "are ongoing," suggesting that EPA has been considering CARB's entire FOIA request for the last 10 months. Answer at ¶ 3. But EPA also stated, in the same answer, that it "lacks knowledge or information sufficient to form a belief as to whether it has possession of and control over any specific document that [CARB] seeks." Answer at ¶ 5. These things cannot all be true, and none of these statements constitute the determination CARB was entitled to within 20 days of its request.

In the interest of facilitating preparation of the joint statement due next week, and hopefully narrowing the scope of any future motion practice, we would like answers to the following questions:

1) Has EPA taken any action on requests 1-11 to determine whether or not it has responsive records? If so, does EPA have any responsive records for each of those requests (regardless of whether they originated from NHTSA)? If not, how does EPA reconcile that position with the statements it made in its answer that its search was "ongoing"? And, does EPA contend that it need not take any action—specifically, that it does not have to make and

provide the determination required within 20 days of a FOIA request—on requests 1-11? If so, please explain how that position is consistent with the principle that “when an agency receives a FOIA request for ‘agency records’ in its possession, it must take responsibility for processing the request. It cannot simply refuse to act on the ground that the documents originated elsewhere.” *McGehee v. CIA*, 697 F.2d 1095, 1110 (D.C. Cir. 1983).

2) For each of the requests 1 through 11, what is the basis of EPA’s assertion that “any records it has ... would be records that were derived from NHTSA [and] would be duplicative of anything that [sic] obtained from NHTSA”? For example, what is the basis of EPA’s assertion that it has no records not derived from NHTSA that contain “information about the models and data used to estimate battery costs for electrified vehicles” (request 1) or that explain the “point estimates” described in request 8?

3) What is the basis for EPA’s assertion that a search for documents responsive to requests 1-11 “will take several additional months”? As discussed above, EPA’s assertions that it that any responsive records would “be records derived from NHTSA” and duplicative of those obtained from NHTSA make it hard to understand how there could be a need to search further for those documents, let alone a search that would take months. In addition, EPA’s answer, in mid-June, that its work on CARB’s request was “ongoing” appears irreconcilable with the need for months of additional time. Given the specificity of CARB’s requests and EPA’s obvious familiarity with the requested documents, it would seem to require minutes, not months, to locate them.

4) Do you agree with the position we expressed in my email of July 9 that no Open America stay will be at issue in this case?

Ryan Hoffman
Deputy Attorney General
Natural Resources Law Section
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Tel: (415) 510-4448
Fax: (415) 703-5480
Email: Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>

From: Seabrook, April (USADC) <April.Seabrook@usdoj.gov<<mailto:April.Seabrook@usdoj.gov>>>
Sent: Wednesday, July 10, 2019 12:23 PM
To: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

Hi Ryan:

Does 3:00 pm EST work for you? If so, please send me a meeting invitation/request to block out the time on my calendar.

Also, I have some additional information for you with respect to the three parts of the FOIA request your email stated NHTSA had not responded to, specifically, parts 1, 4, and 12:

- Part 1: NHTSA has completed its production of documents.
- Parts 4 and 12: NHTSA reports that it has no records.

Thank you,
~ April D.S.

~~~~~  
April Denise Seabrook  
Assistant United States Attorney

Office: (202) 252-2525  
Cell: (202) 815-9024  
April.Seabrook@usdoj.gov<<mailto:April.Seabrook@usdoj.gov>>

From: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>  
Sent: Wednesday, July 10, 2019 3:16 PM  
To: Seabrook, April (USADC) <ASEABROOK@usa.doj.gov<<mailto:ASEABROOK@usa.doj.gov>>>  
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>  
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

April,  
We are still reviewing your email and hope to have a further substantive response and possibly questions to you tomorrow morning. In the meantime, we wanted to get back to you about scheduling a time for a phone call. We are available starting at 12:00 PST / 3:00 EST on Friday. When would work for you?

Ryan Hoffman  
Deputy Attorney General  
Natural Resources Law Section  
California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102  
Tel: (415) 510-4448  
Fax: (415) 703-5480  
Email: Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>

From: Seabrook, April (USADC) <April.Seabrook@usdoj.gov<<mailto:April.Seabrook@usdoj.gov>>>  
Sent: Monday, July 08, 2019 12:49 PM  
To: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>  
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>  
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

Ryan:

Thank you for your detailed email. I have responded to your points as well as included some additional information and questions.

Regarding your requests and the Vaughn index:

Neither the productions nor the Vaughn indexes will be done on the dates you propose. Those dates are unreasonable because they fail to provide sufficient time for all of the work that it takes to complete these tasks.

While I recognize that the Court asked about a Vaughn index, this is a standards request for information and does not necessitate that the Vaughn index be completed by a certain date. In the normal course of FOIA litigation, agencies are not required to produce a Vaughn index until they submit their summary judgment briefing. It should also be noted that preparing a Vaughn index of all withholdings is a highly inefficient, incredibly time-consuming process, and a waste of already scarce resources and, for those reasons, it is not done unless the Plaintiff is challenging every single withholding.

Has CARB looked at the produced documents and determined that it needs to challenge every withholding? If not, then it probably makes more sense for the parties to confer about what withholdings are being challenged, as the more withholdings being challenged, the longer it takes to prepare the Vaughn index.

· Regarding EPA's processing of the request Parts 1-11:

EPA has advised me that any records it has from Parts 1-11 of the FOIA request would be records that were derived from NHTSA. As such, these records would be duplicative of anything that obtained from NHTSA. Moreover, to the extent that EPA searches for and locates any records derived from NHTSA, those records would then be sent to NHTSA for processing and production determinations; they would not be produced by EPA. Additionally, conducting a search for all records responsive to parts 1-11 will take several additional months. Please clarify whether CARB still wants EPA to conduct a search for these documents that have derived from NHTSA.

· Regarding EPA's processing of the request Part 12:

EPA has advised me that, for Part 12 of the request, it can produce all non-exempt portions of responsive records within the next 30 days.

· NHTSA

I am waiting on some information regarding NHTSA and will provide that information when I receive it.

· Call to Discuss

I am not available at 4:00 pm EST for a call regarding this case. I can have a call on Thursday at 1:00pm EST or sometime on Friday.

Thank you,

~ April D.S.

APRIL DENISE SEABROOK

Assistant United States Attorney

Office: (202) 252-2525 | Cell: (202) 815-9024

April.Seabrook@usdoj.gov<<mailto:April.Seabrook@usdoj.gov>>

-----Original Message-----

From: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>

Sent: Friday, July 5, 2019 4:35 PM

To: Seabrook, April (USADC) <ASEABROOK@usa.doj.gov<<mailto:ASEABROOK@usa.doj.gov>>>

Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>

Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

April,

Thank you for the update. To facilitate our meet-and-confer next week, and your discussions with your clients, we wanted to share with you what we intended to discuss by phone this week.

First, CARB requests responses to all outstanding requests (from EPA, responses to all 12 requests, and from NHTSA, responses to requests 1, 4, and 12) by Friday, July 12th. These responses should comply with the agencies' FOIA obligations, including at a minimum: 1) whether each agency has records responsive to each request; and 2) whether each agency intends to withhold any of those records and the basis for any such withholding. As you are aware, our client was entitled to these responses within 20 days of receipt of the requests. It has now been almost 10 months; our client has not received the responses to which it is entitled, and the answer to CARB's complaint neither provided these responses nor any explanation for withholding them. Given how much time has already elapsed, the statutory deadline your clients failed to meet, and the specific nature of the requests at issue, we believe that this request is more than reasonable.

Second, CARB requests a Vaughn index of any responsive records your clients are withholding, including records for which NHTSA has already asserted FOIA exemptions and any records for which your clients assert exemptions as part of the required responses described above. As you are aware, the Court's meet-and-confer order asked whether such an index will be required. It will, and we believe that asking your clients to provide that index by Friday, July 19th is reasonable, again given the specific nature of the requests at issue, the likely small number of records, and the length of time your clients have been in possession of the requests.

Third, the Court's order also asked whether an Open America stay is likely to be requested in this case. We do not believe any stay could possibly be warranted here, given, again, the length of time that has already transpired since the requests were received, the specific nature of the requests, and the likely small number of records involved.

We propose a call on Tuesday, July 9 at 1:00 PM PST / 4:00 PM EST to discuss the above, and any other issues. Please let us know if you are available. Thank you, and have a good weekend.

Ryan Hoffman

Deputy Attorney General

Natural Resources Law Section

California Department of Justice

455 Golden Gate Avenue, Suite 11000

San Francisco, CA 94102

Tel: (415) 510-4448

Fax: (415) 703-5480

Email: [Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>

-----Original Message-----

From: Seabrook, April (USADC) <[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)<<mailto:April.Seabrook@usdoj.gov>>>

Sent: Thursday, July 04, 2019 8:10 PM

To: Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>>

Cc: Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)<<mailto:Elaine.Meckenstock@doj.ca.gov>>>

Subject: Re: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

I will be back in the office early next week. We can confer when I return and have a status update from each agency regarding the processing of the request.

- April DS

April Denise Seabrook

Assistant U.S. Attorney

Office: 202-252-2525

Cell: 202-815-9024

On Jun 28, 2019, at 6:56 PM, Ryan R. Hoffman  
<[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>>> wrote:

Good afternoon April,

Per the Court's order of June 19th, we are to meet and confer regarding "the status of Plaintiffs' FOIA request, the anticipated number of documents responsive to Plaintiffs' FOIA request, the anticipated date(s) for release of the documents requested by Plaintiffs, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, etc." to enable the parties to file a Joint Status Report by July 16th.

We propose a phone call on Tuesday July 2nd next week, and are available from 9:00am PST / 12:00pm EST to approximately 12:00pm PST / 3:00pm EST. We are also generally available Wednesday July 3rd.

Thank you.

Ryan Hoffman

Deputy Attorney General

Natural Resources Law Section

California Department of Justice

455 Golden Gate Avenue, Suite 11000

San Francisco, CA 94102

Tel: (415) 510-4448

Fax: (415) 703-5480

Email: [Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>>

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you are not the intended recipient, please contact the sender and destroy all copies of the communication.

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# EXHIBIT 6



**From:** [Elaine Meckenstock](#)  
**To:** ["Seabrook, April \(USADC\)"](#)  
**Cc:** [Ryan R. Hoffman](#)  
**Subject:** following up/continuing with meet & confer  
**Date:** Monday, July 22, 2019 1:00:00 PM

---

Hi April,

We wanted to follow-up on several meet-and-confer issues that remain outstanding—issues on which we are still looking for a response from your clients. If you and they are able to provide answers this week, we would appreciate that. If not, could you tell us when we can expect the answers?

#### EPA

-  
 As noted in our email exchange last Tuesday, and in the filed joint status report, CARB has asked EPA to provide its final response to parts 1-11 of CARB's request by August 9, rather than by August 16. As you are aware, the first we learned of the August 16 date was in the revisions to the draft joint status report provided by you at 4:54 PM Eastern on the day the joint report was due. Within about one hour, we requested that EPA adjust its response date to August 9 to provide a week for CARB to review EPA's response and for the parties to meet and confer regarding that response before the next joint status report would be due. As we also noted, August 9 is an imminently reasonable date for EPA's response, given 1) the limited scope of the requests; 2) the length of the delay that has already occurred between the FOIA request and any response from EPA; 3) that, per EPA's answer to the complaint, EPA's search was "ongoing" in mid-June; and 4) EPA's indication, in this meet-and-confer that it had already conducted a search sufficient to determine it has no records that did not originate with NHTSA. You indicated that you were unable to get an answer from EPA before the filing of the joint statement. Could you now provide that answer: will EPA agree to provide its final responses to parts 1-11 of CARB's request by August 9? (As we noted in email and in the joint status report, CARB has substantial, legitimate interests in moving this litigation, including this meet-and-confer, along; that is why CARB did not want to delay the next joint status report as you previously suggested.)

NHTSA (these questions are from my July 15 email)

#### **Requests 2 & 9:**

- We understand your July 12 email to indicate that NHTSA is withholding only one record (one data file) each for requests 2 and 9. Is that correct?
- Assuming that's correct, are the records the data files NHTSA purchased as they were purchased? Did NHTSA aggregate or otherwise modify the data it purchased (which we would assume would create additional records)?
- What else can NHTSA tell us about these two records to help CARB understand why there is only one file that is responsive to each request?
- Did NHTSA's purchase of these data include the option to make the data (or aggregations/modifications thereof) public?

**Request 1**

- In your July 10 email, you indicated that NHTSA has completed its production as to this request. CARB does not understand how the responsive records could be limited to those it has received so far, and has the following questions/requests:
  - What search did NHTSA undertake to locate records containing “information about the models and data used to estimate battery costs for electrified vehicles”? How and where did NHTSA search for records that analyze models, versions of models, and data covered by this request or records that refer to or describe models, versions of models, or data covered by this request? How and where did NHTSA search for records that discuss, describe, or refer to the version of BatPaC used in the NPRM and related documents (including the PRIA)?
  - The battery pack configurations described in request 1(b) are necessary inputs to the BatPaC model. Put another way, it appears the model will not run without battery pack configurations. CARB therefore does not understand NHTSA’s response to this request—that “there are no battery pack configurations.” Was NHTSA somehow able to run the BatPaC model without battery pack configurations? Is there another explanation for why NHTSA claims not to have these configurations? Does NHTSA understand CARB to be seeking information here about something other than essential inputs to the BatPaC model?
  - What search did NHTSA undertake to locate records containing information about the battery chemistries it considered as part of the NPRM/PRIA (request 1(c))?

**Request 4**

- How did NHTSA determine that it has no records responsive to request 4?
- One explanation for NHTSA having no responsive records for request 4 is that NHTSA did not do any statistical analysis or evaluation of the ARDL (new sales) model on which it relied in the NPRM. Is that correct? Or does NHTSA understand request 4 not to cover such analysis/evaluation?

Of course, please let us know if it would be useful to discuss any of these questions, or other issues, by phone.

Thanks,  
Elaine

M. Elaine Meckenstock  
Deputy Attorney General  
Natural Resources Law Section  
California Department of Justice  
1515 Clay Street, 20<sup>th</sup> Floor  
Oakland, CA 94612-1492  
(510) 879-0299  
(510) 622-2270 (fax)

# EXHIBIT 7

**From:** [Ryan R. Hoffman](#)  
**To:** [Seabrook, April \(USADC\)](#); [Elaine Meckenstock](#)  
**Subject:** RE: following up/continuing with meet & confer  
**Date:** Tuesday, August 06, 2019 11:25:10 AM

---

April,

We want to check in regarding the questions posed to NHTSA during our meet and confer correspondence in mid-July and reiterated a couple of weeks ago in Elaine's email of July 22<sup>nd</sup>. Can NHTSA provide responses this week so that we can move the meet and confer process along in advance of the next joint status report to the Court? Also, does EPA have a sense of whether it will convey its determinations by August 9<sup>th</sup>? Thanks.

Ryan Hoffman  
 Deputy Attorney General  
 Natural Resources Law Section  
 California Department of Justice  
 455 Golden Gate Avenue, Suite 11000  
 San Francisco, CA 94102  
 Tel: (415) 510-4448  
 Fax: (415) 703-5480  
 Email: [Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)

---

**From:** Seabrook, April (USADC) <[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)>  
**Sent:** Thursday, July 25, 2019 11:05 AM  
**To:** Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>  
**Cc:** Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>  
**Subject:** RE: following up/continuing with meet & confer

Elaine:

I forwarded your email (below) to EPA, and EPA responded as follows: "EPA will endeavor to finish our response by August 9. If CARB is concerned about not having enough time to review the response, then EPA is willing to move the status report to August 23."

I will send you a response from NHTSA when I receive it.

~ April D.S.

---

**APRIL DENISE SEABROOK**  
 Assistant United States Attorney  
**Office:** (202) 252-2525  
**Cell:** (202) 815-9024

April.Seabrook@usdoj.gov

---

**From:** Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>

**Sent:** Monday, July 22, 2019 4:00 PM

**To:** Seabrook, April (USADC) <[ASEABROOK@usa.doj.gov](mailto:ASEABROOK@usa.doj.gov)>

**Cc:** Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>

**Subject:** following up/continuing with meet & confer

Hi April,

We wanted to follow-up on several meet-and-confer issues that remain outstanding—issues on which we are still looking for a response from your clients. If you and they are able to provide answers this week, we would appreciate that. If not, could you tell us when we can expect the answers?

EPA

-

As noted in our email exchange last Tuesday, and in the filed joint status report, CARB has asked EPA to provide its final response to parts 1-11 of CARB's request by August 9, rather than by August 16. As you are aware, the first we learned of the August 16 date was in the revisions to the draft joint status report provided by you at 4:54 PM Eastern on the day the joint report was due. Within about one hour, we requested that EPA adjust its response date to August 9 to provide a week for CARB to review EPA's response and for the parties to meet and confer regarding that response before the next joint status report would be due. As we also noted, August 9 is an imminently reasonable date for EPA's response, given 1) the limited scope of the requests; 2) the length of the delay that has already occurred between the FOIA request and any response from EPA; 3) that, per EPA's answer to the complaint, EPA's search was "ongoing" in mid-June; and 4) EPA's indication, in this meet-and-confer that it had already conducted a search sufficient to determine it has no records that did not originate with NHTSA. You indicated that you were unable to get an answer from EPA before the filing of the joint statement. Could you now provide that answer: will EPA agree to provide its final responses to parts 1-11 of CARB's request by August 9? (As we noted in email and in the joint status report, CARB has substantial, legitimate interests in moving this litigation, including this meet-and-confer, along; that is why CARB did not want to delay the next joint status report as you previously suggested.)

NHTSA (these questions are from my July 15 email)

**Requests 2 & 9:**

- We understand your July 12 email to indicate that NHTSA is withholding only one record (one data file) each for requests 2 and 9. Is that correct?
- Assuming that's correct, are the records the data files NHTSA purchased as they were purchased? Did NHTSA aggregate or otherwise modify the data it purchased (which we would assume would create additional records)?
- What else can NHTSA tell us about these two records to help CARB understand why there is only one file that is responsive to each request?

- Did NHTSA's purchase of these data include the option to make the data (or aggregations/modifications thereof) public?

#### **Request 1**

- In your July 10 email, you indicated that NHTSA has completed its production as to this request. CARB does not understand how the responsive records could be limited to those it has received so far, and has the following questions/requests:
  - What search did NHTSA undertake to locate records containing "information about the models and data used to estimate battery costs for electrified vehicles"? How and where did NHTSA search for records that analyze models, versions of models, and data covered by this request or records that refer to or describe models, versions of models, or data covered by this request? How and where did NHTSA search for records that discuss, describe, or refer to the version of BatPaC used in the NPRM and related documents (including the PRIA)?
  - The battery pack configurations described in request 1(b) are necessary inputs to the BatPaC model. Put another way, it appears the model will not run without battery pack configurations. CARB therefore does not understand NHTSA's response to this request—that "there are no battery pack configurations." Was NHTSA somehow able to run the BatPaC model without battery pack configurations? Is there another explanation for why NHTSA claims not to have these configurations? Does NHTSA understand CARB to be seeking information here about something other than essential inputs to the BatPaC model?
  - What search did NHTSA undertake to locate records containing information about the battery chemistries it considered as part of the NPRM/PRIA (request 1(c))?

#### **Request 4**

- How did NHTSA determine that it has no records responsive to request 4?
- One explanation for NHTSA having no responsive records for request 4 is that NHTSA did not do any statistical analysis or evaluation of the ARDL (new sales) model on which it relied in the NPRM. Is that correct? Or does NHTSA understand request 4 not to cover such analysis/evaluation?

Of course, please let us know if it would be useful to discuss any of these questions, or other issues, by phone.

Thanks,  
Elaine

M. Elaine Meckenstock  
Deputy Attorney General  
Natural Resources Law Section  
California Department of Justice  
1515 Clay Street, 20<sup>th</sup> Floor  
Oakland, CA 94612-1492

(510) 879-0299

(510) 622-2270 (fax)

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# EXHIBIT 8



**From:** Seabrook, April (USADC)  
**To:** Elaine Meckenstock; Ryan R. Hoffman  
**Subject:** NHTSA's Response to Emails of 7/15, 7/22, and 8/6  
**Date:** Thursday, August 15, 2019 10:38:02 AM

---

Elaine:

NHTSA has carefully reviewed the questions in your July 15 email (which were reiterated in emails on July 22 and August 6), and NHTSA hereby provides a response.

As an initial matter, the express language of CARB's underlying FOIA request, which reads more like a set of interrogatories or a comment to a rulemaking docket rather than a FOIA request for documents, posed questions seeking specific information pertaining to the Notice of Proposed Rulemaking for the SAFE Vehicles Rule. These questions transcended the purposes and form of requests contemplated by FOIA, which does not permit requests that pose questions to an agency and does not require the agency to respond to such questions. *See Thomas v. Comptroller of Currency*, 684 F. Supp. 2d 29, 33–34 (D.D.C. 2010) ("To the extent that plaintiff's FOIA requests were questions or requests for explanations of policies or procedures, these are not proper FOIA requests requiring the [agency's] response."). Despite the request's improper attempt to gain information through questioning the agency, NHTSA has nevertheless sought to cooperatively provide answers by producing reasonably segregable, non-exempt information, where available.

The questions posed in the July and August 2019 emails once again exceed the appropriate scope and nature of an appropriate FOIA request and also exceed the scope of the FOIA request at issue in this case. For example, the follow-up questions seek to broaden the FOIA request as seeking *all* records regarding the various topics, despite the FOIA request's language that poses a list of questions regarding specific topics. Moreover, other aspects of the follow-up, such as asking NHTSA to describe its statistical analysis relating to the NPRM, resemble substantive discovery requests into the deliberative process of the rulemaking. This goes well beyond the scope of the only issues that are relevant in this FOIA matter: (i) whether NHTSA performed an adequate search for records responsive to the reasonably interpreted FOIA request; and (ii) whether NHTSA appropriately applied FOIA exemptions to withhold records or portions of records. NHTSA believes these matters are best addressed in detail in the summary judgment briefing, which affords the parties the opportunity to fully convey their respective positions.

In responding to the FOIA request, NHTSA consulted with the appropriate individuals involved in the rulemaking at issue in CARB's FOIA request to identify the available requested information. Where this investigation indicated that the agency did not maintain aspects of the information sought in the questions, when applicable, NHTSA advised CARB that it did not maintain the information and referred CARB to other

government entities from which the information could be sought. Finally, the Polk data, including any of the agency's aggregations or applications of the data, consists of a complex collection of extensive data. All of the iterations of the data identified in responding to CARB's underlying request were in proprietary forms for which public disclosure was not permitted.

Thank you,  
April D.S.

**APRIL DENISE SEABROOK**

Assistant United States Attorney

555 4th Street, NW | Washington, D.C. 20530

Office: (202) 252-2525 | Cell: (202) 815-9024

[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)

# EXHIBIT 9

**From:** [Seabrook, April \(USADC\)](#)  
**To:** [Ryan R. Hoffman](#)  
**Cc:** [Elaine Meckenstock](#)  
**Subject:** RE: Redacted email in EPA's August 16 response  
**Date:** Wednesday, September 18, 2019 3:31:43 PM

---

Hi Ryan:

Thank you for following up.

In response to CARB's email inquiring "Could EPA tell us which part of CARB's request each [of the two identified documents] was responsive to," EPA responds as follows: "Thanks so much for your question. E.P.A. does not typically provide that information."

Best regards,  
April D.S.

---

**APRIL DENISE SEABROOK**  
Assistant United States Attorney  
**Office:** (202) 252-2525  
**Cell:** (202) 815-9024  
[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)

---

**From:** Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>  
**Sent:** Wednesday, September 18, 2019 11:53 AM  
**To:** Seabrook, April (USADC) <[ASEABROOK@usa.doj.gov](mailto:ASEABROOK@usa.doj.gov)>  
**Cc:** Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>  
**Subject:** RE: Redacted email in EPA's August 16 response

Good morning April,  
Checking in regarding our request for clarification as to the two redacted emails produced by EPA.  
Have you received a response from the agency? If not, would you follow up with them? Thank you.

Ryan Hoffman  
Deputy Attorney General  
Natural Resources Law Section  
California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102  
Tel: (415) 510-4448  
Fax: (415) 703-5480  
Email: [Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)

---

**From:** Seabrook, April (USADC) <[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)>  
**Sent:** Friday, September 6, 2019 12:07 PM  
**To:** Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>

**Cc:** Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>  
**Subject:** RE: Redacted email in EPA's August 16 response

Hi Elaine:

I have forwarded your questions to the agency. As a “head’s up,” I will not have a response until (at the earliest) the middle of next week because my agency counsel is out of the office.

Have a nice weekend.  
~ April D.S.

---

**APRIL DENISE SEABROOK**  
Assistant United States Attorney  
**Office:** (202) 252-2525  
**Cell:** (202) 815-9024  
[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)

---

**From:** Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>  
**Sent:** Thursday, September 5, 2019 11:59 AM  
**To:** Seabrook, April (USADC) <[ASEABROOK@usa.doj.gov](mailto:ASEABROOK@usa.doj.gov)>  
**Cc:** Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>  
**Subject:** Redacted email in EPA's August 16 response

Hi April,

In its August 16 production in response to CARB’s FOIA request, EPA produced two redacted emails titled “Email of July 30 2018 – Proposed Redactions\_Redacted.pdf” and “Email of Aug 9 2018-RE Status of BatPac...” Could EPA tell us which part of CARB’s request each of these was responsive to? And, if they were responsive to part 1, which subpart of that request is involved—e.g, 1(a), 1(b), or 1(c)?

Thanks very much,  
Elaine

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applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

# EXHIBIT 10

**From:** [Seabrook, April \(USADC\)](#)  
**To:** [Elaine Meckenstock](#); [Ryan R. Hoffman](#)  
**Subject:** RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)  
**Date:** Monday, July 15, 2019 2:38:51 PM

---

Elaine:

Included below is some preliminary information about the responsive documents that EPA has. I will send more information as I receive it but that likely will not be before the status report is filed.

- EPA has a number of documents that it downloaded from the public CAFE model website, including the following documents:
  - Part 5 of the request: the coefficients for the dynamic fleet share equation are in the "DFS Model Values" tab of the "2018\_NPRM\_parameters\_ref.xlsx" CAFE model input file
  - Part 7 of the request seeks "CAFE model output file Annual Societal Effects Report." The Annual Societal Effects Report, which EPA has downloaded, can also be found on the CAFE model website ("annual\_societal\_effects\_report.csv"). Note that the FOIA request incorrectly states that the data "describes predicted fatalities by regulatory class, body style, and weight threshold of a vehicle" when in fact the file only presents results by regulatory class and fuel type, and not by body style or weight threshold.
  - Part 10 of the request: EPA has downloaded the "R-scripts" found on the CAFE model website, an "off model analytical tool" in CARB's words.
- EPA also has copies of NHTSA's FOIA response to CARB, so it has all of the responsive information that response contained. I can copy and paste that if it's helpful.
- Part 12 of CARB's request is broader than the information sought in NRDC v. EPA (SDNY), as it deals with the ALPHA model in addition to the OMEGA model. EPA is assessing the exemption status of the source code of the ALPHA model and is verifying whether or not there are additional responsive files specifically relevant to the ALPHA model beyond those produced in the NRDC litigation.

At the minimum, EPA's response will include a final determination on the ALPHA model's source code, which the agency did not provide in the NRDC litigation.

Thank you,  
 April D.S.

APRIL DENISE SEABROOK  
 Assistant United States Attorney  
 Office: (202) 252-2525 | Cell: (202) 815-9024  
[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)

-----Original Message-----

From: Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>  
 Sent: Monday, July 15, 2019 3:12 PM  
 To: Seabrook, April (USADC) <[ASEABROOK@usa.doj.gov](mailto:ASEABROOK@usa.doj.gov)>; Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>  
 Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

April:

Thanks for your email.

CARB still needs to receive from EPA what it has been consistently requesting: a request-by-request (or part-by-part, if you prefer) determination as to whether EPA has any responsive records, based on the preliminary search you describe EPA having conducted. Is there a reason EPA refuses to provide this basic information for each (or any) of CARB's requests? Is EPA taking the position that it is not required to tell CARB, for each request, whether EPA has located any responsive records through its preliminary search? If EPA is not taking that position, please provide this information today. If EPA is taking the position that it need not provide this information, what is the legal justification for that position?

-Elaine

-----Original Message-----

From: Seabrook, April (USADC) [<mailto:April.Seabrook@usdoj.gov>]  
 Sent: Monday, July 15, 2019 10:46 AM  
 To: Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)>  
 Cc: Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)>  
 Subject: Re: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

Ryan:

In response to the questions in your email below:



Yes, EPA does have at least a few documents responsive to parts 1-11 of the FOIA request—but after doing a preliminary search, all of those documents were either 1) publicly posted to the docket by NHTSA or 2) in NHTSA's initial FOIA response to CARB.

1) Yes, EPA has done a preliminary search—basically, reaching out individually to the custodians who would have responsive records in their possession and asking what they have. EPA continues to refine that search as communications with P continue (for example, CARB asked about two specific parts of the request below, and Agency counsel spoke to someone today to see more specifically if there was anything responsive to those. That is a consistent position.

2) Again, based on the preliminary search: In response to the specific questions = Part 1 does not seek general information about battery costs, it seeks information very specific to the SAFE vehicles rule (see 1.a., 1.b., and 1.c.). NHTSA conducted the specific battery cost analyses that CARB's FOIA is seeking information about. After a preliminary search, EPA did not uncover any additional records beyond those posted publicly to the docket or in NHTSA's initial response to CARB. The same is true for Part 8 in regards to the "point estimates."

3) If CARB wishes EPA to conduct a more systematic search beyond asking specific custodians, including an Outlook-based search, it would require development of search terms, running the search through our eDiscovery system, and processing and reviewing large numbers of unresponsive documents, which would take at least several months.

-April

April Denise Seabrook  
Assistant U.S. Attorney  
Office: 202-252-2525  
Cell: 202-815-9024

On Jul 11, 2019, at 12:55 PM, Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>> wrote:

April,

Thank you for your emails of July 8 and 10. We look forward to talking with you on Friday. In the meantime, we wanted to respond to the substance of your July 8 email. We are still considering your July 10 email.

First, as to EPA's indication that it can produce all non-exempt portions of records responsive to request 12 within 30 days of your July 8 email, CARB is willing to agree to that schedule, provided the response it receives on or before August 7, 2019 includes not only all non-exempt, responsive records (or portions thereof) but also a description of records withheld and the justification for that withholding. As you and EPA are aware, request 12 is quite specific, and EPA has now had 10 months to provide this information. Please confirm that EPA is willing to agree to this.

Second, in response to your question whether CARB "needs to challenge every withholding," at the moment our answer would have to be yes. CARB has received no information about the records NHTSA is withholding or the basis for the withholding. Notably, NHTSA's answer shed no light on the basis for these withholdings as NHTSA summarily denied nearly every allegation in CARB's complaint, including those relating to the asserted exemptions. If NHTSA is willing to provide further information, we may be able to narrow the scope of a future summary judgment motion and/or Vaughn index, but, at the moment, CARB is entirely in the dark and has no information or other basis on which it could accept NHTSA's assertions.

Specifically, with respect to requests 2 and 9, CARB does not know, for example, the terms of any purchase agreement to acquire the data; the scope and results of the modifications and/or aggregations NHTSA made to the data; or what efforts, if any, NHTSA made to segregate. Similarly, with respect to request 8, CARB noted in its complaint that it is unaware of any basis for the application of the asserted exemption, including the fact that similar analyses have been disclosed by these agencies in the past. See Complaint at ¶¶ 97-99. NHTSA's answer shed no light on the basis for the exemption.

As to the time it would take to prepare a Vaughn index, we note that the three requests for which exemptions have, to date, been asserted are very targeted. CARB believes the number of records at issue is quite small, and, given that NHTSA must have already identified the records in order to assert exemptions for them, we do not understand how preparation of a Vaughn index would be time-consuming here. We thus reiterate that CARB needs to receive sufficient information about the records withheld and the basis for the withholding—whether in the form of a Vaughn index or otherwise—to understand NHTSA's position. We had hoped to receive this information before the parties have to file their joint statement, as the basis for the asserted exemptions is obviously highly relevant to the next steps in the litigation. Please advise what information NHTSA is willing to provide in this regard, and by when.

Third, given your July 10 email indicating that NHTSA has no records responsive to request 4, and your July 8 email indicating EPA's position on requests 1-11, is it now EPA's position that it likewise has no records responsive to request 4?

Fourth, in response to your request that we clarify "whether CARB still wants EPA to conduct a search for [records responsive to requests 1-11]," we do not understand how it can be at all unclear what CARB wants, as an initial matter, from EPA with respect to these requests. In CARB's December 19, 2018 letter to EPA and NHTSA, CARB expressly complained about EPA's failure to "even make a timely FOIA determination" as to whether it has responsive records. Exhibit D to Complaint at p. 3. CARB reiterated this in multiple places in its complaint, expressly seeking this determination. Complaint at ¶¶ 3, 30, 139-142, 151-153. I then reiterated this request in my email to you of July 5, 2019. Again, CARB is asking whether EPA has any records responsive to requests part 1-11 and, if it does, whether EPA intends to withhold any of those records and on what grounds. EPA's refusal to answer these basic questions violates both the letter and the spirit of FOIA, and we ask, again, that EPA answer them.

Rather than provide this determination as required by FOIA, EPA has made a series of statements that contradict each other and seem designed to obfuscate whether EPA has taken any action at all with respect to requests 1-11 and whether EPA has any responsive records. For example, in your July 8 email, EPA refuses to indicate whether or not it has responsive records and indicates it would take months to conduct a search,

while simultaneously asserting that it knows enough about the records in (or not in) its possession to purport to assure CARB that any records it might (or might not) have would be duplicative of records NHTSA has. Notably, in its answer, EPA claimed that its “review and processing of records responsive to” CARB’s request “are ongoing,” suggesting that EPA has been considering CARB’s entire FOIA request for the last 10 months. Answer at ¶ 3. But EPA also stated, in the same answer, that it “lacks knowledge or information sufficient to form a belief as to whether it has possession of and control over any specific document that [CARB] seeks.” Answer at ¶ 5. These things cannot all be true, and none of these statements constitute the determination CARB was entitled to within 20 days of its request.

In the interest of facilitating preparation of the joint statement due next week, and hopefully narrowing the scope of any future motion practice, we would like answers to the following questions:

1) Has EPA taken any action on requests 1-11 to determine whether or not it has responsive records? If so, does EPA have any responsive records for each of those requests (regardless of whether they originated from NHTSA)? If not, how does EPA reconcile that position with the statements it made in its answer that its search was “ongoing”? And, does EPA contend that it need not take any action—specifically, that it does not have to make and provide the determination required within 20 days of a FOIA request—on requests 1-11? If so, please explain how that position is consistent with the principle that “when an agency receives a FOIA request for ‘agency records’ in its possession, it must take responsibility for processing the request. It cannot simply refuse to act on the ground that the documents originated elsewhere.” *McGehee v. CIA*, 697 F.2d 1095, 1110 (D.C. Cir. 1983).

2) For each of the requests 1 through 11, what is the basis of EPA’s assertion that “any records it has ... would be records that were derived from NHTSA [and] would be duplicative of anything that [sic] obtained from NHTSA”? For example, what is the basis of EPA’s assertion that it has no records not derived from NHTSA that contain “information about the models and data used to estimate battery costs for electrified vehicles” (request 1) or that explain the “point estimates” described in request 8?

3) What is the basis for EPA’s assertion that a search for documents responsive to requests 1-11 “will take several additional months”? As discussed above, EPA’s assertions that it that any responsive records would “be records derived from NHTSA” and duplicative of those obtained from NHTSA make it hard to understand how there could be a need to search further for those documents, let alone a search that would take months. In addition, EPA’s answer, in mid-June, that its work on CARB’s request was “ongoing” appears irreconcilable with the need for months of additional time. Given the specificity of CARB’s requests and EPA’s obvious familiarity with the requested documents, it would seem to require minutes, not months, to locate them.

4) Do you agree with the position we expressed in my email of July 9 that no Open America stay will be at issue in this case?

Ryan Hoffman  
Deputy Attorney General  
Natural Resources Law Section  
California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102  
Tel: (415) 510-4448  
Fax: (415) 703-5480  
Email: [Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>

From: Seabrook, April (USADC) <[April.Seabrook@usdoj.gov](mailto:April.Seabrook@usdoj.gov)<<mailto:April.Seabrook@usdoj.gov>>>  
Sent: Wednesday, July 10, 2019 12:23 PM  
To: Ryan R. Hoffman <[Ryan.Hoffman@doj.ca.gov](mailto:Ryan.Hoffman@doj.ca.gov)<<mailto:Ryan.Hoffman@doj.ca.gov>>>  
Cc: Elaine Meckenstock <[Elaine.Meckenstock@doj.ca.gov](mailto:Elaine.Meckenstock@doj.ca.gov)<<mailto:Elaine.Meckenstock@doj.ca.gov>>>  
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

Hi Ryan:

Does 3:00 pm EST work for you? If so, please send me a meeting invitation/request to block out the time on my calendar.

Also, I have some additional information for you with respect to the three parts of the FOIA request your email stated NHTSA had not responded to, specifically, parts 1, 4, and 12:

- Part 1: NHTSA has completed its production of documents.
- Parts 4 and 12: NHTSA reports that it has no records.

Thank you,  
~ April D.S.

~~~~~  
April Denise Seabrook
Assistant United States Attorney
Office: (202) 252-2525
Cell: (202) 815-9024
April.Seabrook@usdoj.gov<<mailto:April.Seabrook@usdoj.gov>>

From: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>
Sent: Wednesday, July 10, 2019 3:16 PM
To: Seabrook, April (USADC) <ASEABROOK@usa.doj.gov<<mailto:ASEABROOK@usa.doj.gov>>>
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-

965)

April,

We are still reviewing your email and hope to have a further substantive response and possibly questions to you tomorrow morning. In the meantime, we wanted to get back to you about scheduling a time for a phone call. We are available starting at 12:00 PST / 3:00 EST on Friday. When would work for you?

Ryan Hoffman
Deputy Attorney General
Natural Resources Law Section
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Tel: (415) 510-4448
Fax: (415) 703-5480
Email: Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>

From: Seabrook, April (USADC) <April.Seabrook@usdoj.gov<<mailto:April.Seabrook@usdoj.gov>>>
Sent: Monday, July 08, 2019 12:49 PM
To: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>
Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>
Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

Ryan:

Thank you for your detailed email. I have responded to your points as well as included some additional information and questions.

· Regarding your requests and the Vaughn index:

Neither the productions nor the Vaughn indexes will be done on the dates you propose. Those dates are unreasonable because they fail to provide sufficient time for all of the work that it takes to complete these tasks.

While I recognize that the Court asked about a Vaughn index, this is a standards request for information and does not necessitate that the Vaughn index be completed by a certain date. In the normal course of FOIA litigation, agencies are not required to produce a Vaughn index until they submit their summary judgment briefing. It should also be noted that preparing a Vaughn index of all withholdings is a highly inefficient, incredibly time-consuming process, and a waste of already scarce resources and, for those reasons, it is not done unless the Plaintiff is challenging every single withholding.

Has CARB looked at the produced documents and determined that it needs to challenge every withholding? If not, then it probably makes more sense for the parties to confer about what withholdings are being challenged, as the more withholdings being challenged, the longer it takes to prepare the Vaughn index.

· Regarding EPA's processing of the request Parts 1-11:

EPA has advised me that any records it has from Parts 1-11 of the FOIA request would be records that were derived from NHTSA. As such, these records would be duplicative of anything that obtained from NHTSA. Moreover, to the extent that EPA searches for and locates any records derived from NHTSA, those records would then be sent to NHTSA for processing and production determinations; they would not be produced by EPA. Additionally, conducting a search for all records responsive to parts 1-11 will take several additional months. Please clarify whether CARB still wants EPA to conduct a search for these documents that have derived from NHTSA.

· Regarding EPA's processing of the request Part 12:

EPA has advised me that, for Part 12 of the request, it can produce all non-exempt portions of responsive records within the next 30 days.

· NHTSA

I am waiting on some information regarding NHTSA and will provide that information when I receive it.

· Call to Discuss

I am not available at 4:00 pm EST for a call regarding this case. I can have a call on Thursday at 1:00pm EST or sometime on Friday.

Thank you,

~ April D.S.

APRIL DENISE SEABROOK

Assistant United States Attorney

Office: (202) 252-2525 | Cell: (202) 815-9024

April.Seabrook@usdoj.gov <<mailto:April.Seabrook@usdoj.gov>>

-----Original Message-----

From: Ryan R. Hoffman <Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov>>>

Sent: Friday, July 5, 2019 4:35 PM

To: Seabrook, April (USADC) <ASEABROOK@usa.doj.gov<<mailto:ASEABROOK@usa.doj.gov>>>

Cc: Elaine Meckenstock <Elaine.Meckenstock@doj.ca.gov<<mailto:Elaine.Meckenstock@doj.ca.gov>>>

Subject: RE: Time to meet and confer regarding litigation schedule (Cal. Air Resources Board v. U.S. EPA and NHTSA, Civil Action No. 19-965)

April,

Thank you for the update. To facilitate our meet-and-confer next week, and your discussions with your clients, we wanted to share with you what we intended to discuss by phone this week.

First, CARB requests responses to all outstanding requests (from EPA, responses to all 12 requests, and from NHTSA, responses to requests 1, 4, and 12) by Friday, July 12th. These responses should comply with the agencies' FOIA obligations, including at a minimum: 1) whether each agency has records responsive to each request; and 2) whether each agency intends to withhold any of those records and the basis for any such withholding. As you are aware, our client was entitled to these responses within 20 days of receipt of the requests. It has now been almost 10 months; our client has not received the responses to which it is entitled, and the answer to CARB's complaint neither provided these responses nor any explanation for withholding them. Given how much time has already elapsed, the statutory deadline your clients failed to meet, and the specific nature of the requests at issue, we believe that this request is more than reasonable.

Second, CARB requests a Vaughn index of any responsive records your clients are withholding, including records for which NHTSA has already asserted FOIA exemptions and any records for which your clients assert exemptions as part of the required responses described above. As you are aware, the Court's meet-and-confer order asked whether such an index will be required. It will, and we believe that asking your clients to provide that index by Friday, July 19th is reasonable, again given the specific nature of the requests at issue, the likely small number of records, and the length of time your clients have been in possession of the requests.

Third, the Court's order also asked whether an Open America stay is likely to be requested in this case. We do not believe any stay could possibly be warranted here, given, again, the length of time that has already transpired since the requests were received, the specific nature of the requests, and the likely small number of records involved.

We propose a call on Tuesday, July 9 at 1:00 PM PST / 4:00 PM EST to discuss the above, and any other issues. Please let us know if you are available. Thank you, and have a good weekend.

Thank you.

Ryan Hoffman

Deputy Attorney General

Natural Resources Law Section

California Department of Justice

455 Golden Gate Avenue, Suite 11000

San Francisco, CA 94102

Tel: (415) 510-4448

Fax: (415) 703-5480

Email:

Ryan.Hoffman@doj.ca.gov<<mailto:Ryan.Hoffman@doj.ca.gov><<mailto:Ryan.Hoffman@doj.ca.gov>%3c<mailto:Ryan.Hoffman@doj.ca.gov>>>>>

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Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 3/26/2020 12:47:57 AM
To: Charmley, William [charmley.william@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: FW: DRAFT/DELIBERATIVE: Update FRIA
Attachments: SAFE FRIA 200325 EO12866 Deliberative.docx

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Sent: Wednesday, March 25, 2020 8:36 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Jim Tamm <james.tamm@dot.gov>; Moor, Karl <Moor.Karl@epa.gov>
Subject: DRAFT/DELIBERATIVE: Update FRIA

Sarah –

Please find an updated draft FRIA attached.

Thanks,
Ross

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 3/26/2020 12:47:14 AM
To: Charmley, William [charmley.william@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble
Attachments: SAFE Preamble Redlines EO12866 200325 Deliberative.docx

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Sent: Wednesday, March 25, 2020 8:33 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Jim Tamm <james.tamm@dot.gov>; Moor, Karl <Moor.Karl@epa.gov>
Subject: RE: DRAFT/DELIBERATIVE: Updated Preamble

Redline attached.

From: Rutledge, Ross (NHTSA)
Sent: Wednesday, March 25, 2020 8:30 PM
To: 'Dunham, Sarah' <Dunham.Sarah@epa.gov>
Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Tamm, James (NHTSA) <james.tamm@dot.gov>; 'Moor, Karl' <Moor.Karl@epa.gov>
Subject: DRAFT/DELIBERATIVE: Updated Preamble

Hi Sarah –

Please find attached a revised draft of the preamble. I will share a redline in a separate email.

Thanks.

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 3/26/2020 12:46:37 AM
To: Charmley, William [charmley.william@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble
Attachments: SAFE Preamble EO12866 200325 Deliberative.docx

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Sent: Wednesday, March 25, 2020 8:31 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Jim Tamm <james.tamm@dot.gov>; Moor, Karl <Moor.Karl@epa.gov>
Subject: DRAFT/DELIBERATIVE: Updated Preamble

Hi Sarah –

Please find attached a revised draft of the preamble. I will share a redline in a separate email.

Thanks.

Message

From: DC-WJCN-6520Y-M@epa.gov [DC-WJCN-6520Y-M@epa.gov]
Sent: 2/25/2020 10:25:13 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]
Attachments: draftcommentresponse2020-02-25-172513.pdf

Message

From: Idsal, Anne [idsal.anne@epa.gov]
Sent: 3/30/2020 4:07:43 PM
To: Moor, Karl [Moor.Karl@epa.gov]; Raymond, Kelley [Raymond.Kelley@epa.gov]; Tardif, Abigale (Abbie) [Tardif.Abbie@epa.gov]
CC: Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: FW: full text from Thursday
Attachments: SAFE 3.26.20 2040 redline.docx

And here is the Thursday night version with additional excerpts of the relevant passages. Karl, I'll give you a call shortly to discuss.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

.....

.....

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/26/2020 11:40:34 AM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Fwd: DRAFT/DELIBERATIVE: Update FRIA
Attachments: SAFE FRIA 200325 EO12866 Deliberative.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: March 26, 2020 at 7:24:21 AM EDT
To: "Fotouhi, David" <Fotouhi.David@epa.gov>
Cc: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Kataoka, Mark" <Kataoka.Mark@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Update FRIA

And update FRIA for SAFE

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
 Sent: Wednesday, March 25, 2020 8:48 PM
 To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
 Subject: FW: DRAFT/DELIBERATIVE: Update FRIA

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov<mailto:ross.rutledge1@dot.gov>>
 Sent: Wednesday, March 25, 2020 8:36 PM
 To: Dunham, Sarah <Dunham.Sarah@epa.gov<mailto:Dunham.Sarah@epa.gov>>
 Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov<mailto:Jonathan.Morrison@dot.gov>>; Jim Tamm <james.tamm@dot.gov<mailto:james.tamm@dot.gov>>; Moor, Karl <Moor.Karl@epa.gov<mailto:Moor.Karl@epa.gov>>
 Subject: DRAFT/DELIBERATIVE: Update FRIA

Sarah –

Please find an updated draft FRIA attached.

Thanks,
 Ross

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/26/2020 11:39:54 AM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Fwd: DRAFT/DELIBERATIVE: Updated Preamble
Attachments: SAFE Preamble Redlines EO12866 200325 Deliberative.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: March 26, 2020 at 7:21:57 AM EDT
To: "Fotouhi, David" <Fotouhi.David@epa.gov>
Cc: "Kataoka, Mark" <Kataoka.Mark@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

Updated SAFE preamble (2/2)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
 Sent: Wednesday, March 25, 2020 8:47 PM
 To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
 Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov<mailto:ross.rutledge1@dot.gov>>
 Sent: Wednesday, March 25, 2020 8:33 PM
 To: Dunham, Sarah <Dunham.Sarah@epa.gov<mailto:Dunham.Sarah@epa.gov>>
 Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov<mailto:Jonathan.Morrison@dot.gov>>; Jim Tamm <james.tamm@dot.gov<mailto:james.tamm@dot.gov>>; Moor, Karl <Moor.Karl@epa.gov<mailto:Moor.Karl@epa.gov>>
 Subject: RE: DRAFT/DELIBERATIVE: Updated Preamble

Redline attached.

From: Rutledge, Ross (NHTSA)
 Sent: Wednesday, March 25, 2020 8:30 PM
 To: 'Dunham, Sarah' <Dunham.Sarah@epa.gov<mailto:Dunham.Sarah@epa.gov>>
 Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov<mailto:Jonathan.Morrison@dot.gov>>; Tamm, James (NHTSA) <james.tamm@dot.gov<mailto:james.tamm@dot.gov>>; 'Moor, Karl'

<Moor.Karl@epa.gov<mailto:Moor.Karl@epa.gov>>
Subject: DRAFT/DELIBERATIVE: Updated Preamble

Hi Sarah –

Please find attached a revised draft of the preamble. I will share a redline in a separate email.

Thanks.

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/26/2020 11:39:22 AM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Fwd: DRAFT/DELIBERATIVE: Updated Preamble
Attachments: SAFE Preamble EO12866 200325 Deliberative.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: March 26, 2020 at 7:20:31 AM EDT
To: "Fotouhi, David" <Fotouhi.David@epa.gov>
Cc: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Kataoka, Mark" <Kataoka.Mark@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

Another updated version of the SAFE 2 preamble (1/2)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
 Sent: Wednesday, March 25, 2020 8:47 PM
 To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
 Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov<mailto:ross.rutledge1@dot.gov>>
 Sent: Wednesday, March 25, 2020 8:31 PM
 To: Dunham, Sarah <Dunham.Sarah@epa.gov<mailto:Dunham.Sarah@epa.gov>>
 Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov<mailto:Jonathan.Morrison@dot.gov>>; Jim Tamm <james.tamm@dot.gov<mailto:james.tamm@dot.gov>>; Moor, Karl <Moor.Karl@epa.gov<mailto:Moor.Karl@epa.gov>>
 Subject: DRAFT/DELIBERATIVE: Updated Preamble

Hi Sarah –

Please find attached a revised draft of the preamble. I will share a redline in a separate email.

Thanks.

Message

From: Schiermeyer, Corry [schiermeyer.corry@epa.gov]
Sent: 3/30/2020 2:34:41 PM
To: Rushton, Sean (NHTSA) [sean.rushton@dot.gov]; Tardif, Abigale (Abbie) [Tardif.Abbie@epa.gov]
CC: Woods, Andrea [Woods.Andrea@epa.gov]; Voyles, Travis [Voyles.Travis@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]
Subject: RE: Rollout Tuesday

I think we should at least have the call at 11am to go over the comms/outreach plans...who is doing what, etc.

We can regroup later to do a ROS call w/ Anne and James. Would that work? 4:30pm or so today for principals?

Sorry...just want to make sure we are coordinated on who is pitching who, at what time, what other needs there are for everyone, etc. We should be able to do this at a staff level first.

That way when we have Anne and James we are all solid.

Thank you!

From: Rushton, Sean (NHTSA) <sean.rushton@dot.gov>
Sent: Monday, March 30, 2020 10:31 AM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>; Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Cc: Woods, Andrea <Woods.Andrea@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>
Subject: RE: Rollout Tuesday

Final op-ed is with WH now, expected back any time. I've reached out to WSJ op-ed. No commitment but they are willing to take a look.

Unfortunately James is booked at 11 AM (and 1 PM). I'd be happy to join a call with you at 11. James is flexible most of the rest of the day.

From: Tardif, Abigale (Abbie) [mailto:Tardif.Abbie@epa.gov]
Sent: Monday, March 30, 2020 9:27 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Rushton, Sean (NHTSA) <sean.rushton@dot.gov>
Cc: Woods, Andrea <Woods.Andrea@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>
Subject: RE: Rollout Tuesday

I am adding Anne.

She does want to be on the call to discuss logistics.

Abigale Tardif
 Policy and Communications Advisor
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 Desk: 202-564-5643 | Cell: 202-738-7297

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Sent: Monday, March 30, 2020 9:24 AM

To: Rushton, Sean (NHTSA) <sean.rushton@dot.gov>; Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Cc: Woods, Andrea <Woods.Andrea@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: RE: Rollout Tuesday

Any word on the final OpEd that was sent to the WH?

We will be in our own location. I think we all need to have a call...unfortunately, 11am is about the only time I have open on my schedule.

This is my understanding of media call ROS:

Sec Chao opens

Adm Wheeler opens

Q/A with James Owens and Anne Idsall

You should work with Abbie on stakeholder calls if you need Anne to join. Also, Travis Voyles for Congressional outreach.

Andrea Woods will work with you all on media and timing of pitching items under embargo, etc. I did make an edit to the Administrator's quote in the press release that I have to get cleared...hopefully quickly.

Thank you!!!

From: Rushton, Sean (NHTSA) <sean.rushton@dot.gov>
Sent: Monday, March 30, 2020 9:08 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Cc: Woods, Andrea <Woods.Andrea@epa.gov>
Subject: Re: Rollout Tuesday

That's right. You will be in your own location, correct? DOT/NHTSA is getting together in our large conference room.

Does it make sense to put our principals together today for a call to walk through the everything?

Also, we may be shifting around stakeholder briefings tomorrow - especially Congress. Would Anne like to join us for any of those calls?

Thanks!

[Get Outlook for iOS](#)

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Sent: Monday, March 30, 2020 8:41:05 AM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Cc: Rushton, Sean (NHTSA) <sean.rushton@dot.gov>; Woods, Andrea <Woods.Andrea@epa.gov>
Subject: RE: Rollout Tuesday

That is the time I have from Sean (cc'd here)...

From: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>

Sent: Monday, March 30, 2020 8:39 AM

To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>

Subject: Rollout Tuesday

Corry-

Is the press conference set for tomorrow at 10:30AM-11:30AM? I am trying to make sure Anne's calendar is clear for all times she needs to be available.

Best,

Abbie

Abigale Tardif

Policy and Communications Advisor

Office of Air and Radiation

U.S. Environmental Protection Agency

Desk: 202-564-5643 | Cell: 202-738-7297

Message

From: Woods, Andrea [Woods.Andrea@epa.gov]
Sent: 3/30/2020 2:26:32 PM
To: Tardif, Abigale (Abbie) [Tardif.Abbie@epa.gov]; Schiermeyer, Corry [schiermeyer.corry@epa.gov]; Rushton, Sean (NHTSA) [sean.rushton@dot.gov]
CC: Voyles, Travis [Voyles.Travis@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]
Subject: RE: Rollout Tuesday

Does 11am work for everyone for this call? Sean, let us know if you need anyone else from your team added to the call.

From: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
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To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Rushton, Sean (NHTSA) <sean.rushton@dot.gov>
Cc: Woods, Andrea <Woods.Andrea@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>
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 Policy and Communications Advisor
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 Desk: 202-564-5643 | Cell: 202-738-7297

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You should work with Abbie on stakeholder calls if you need Anne to join. Also, Travis Voyles for Congressional outreach.

Andrea Woods will work with you all on media and timing of pitching items under embargo, etc. I did make an edit to the Administrator's quote in the press release that I have to get cleared...hopefully quickly.

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To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Cc: Woods, Andrea <Woods.Andrea@epa.gov>
Subject: Re: Rollout Tuesday

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Also, we may be shifting around stakeholder briefings tomorrow - especially Congress. Would Anne like to join us for any of those calls?
Thanks!

Get [Outlook for iOS](#)

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Sent: Monday, March 30, 2020 8:41:05 AM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Cc: Rushton, Sean (NHTSA) <sean.rushton@dot.gov>; Woods, Andrea <Woods.Andrea@epa.gov>
Subject: RE: Rollout Tuesday

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From: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Sent: Monday, March 30, 2020 8:39 AM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Subject: Rollout Tuesday

Corry-

Is the press conference set for tomorrow at 10:30AM-11:30AM? I am trying to make sure Anne's calendar is clear for all times she needs to be available.

Best,
Abbie

Abigale Tardif
Policy and Communications Advisor

Office of Air and Radiation

U.S. Environmental Protection Agency

Desk: 202-564-5643 | Cell: 202-738-7297

Message

From: Idsal, Anne [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B1BECA8121FB47A08E82B6BF2247A79B-IDSAL, ANNE]
Sent: 3/30/2020 4:41:42 PM
To: Bolen, Brittany [bolen.brittany@epa.gov]
Subject: FW: full text from Thursday
Attachments: SAFE 3.26.20 2040 redline.docx

FYI

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Monday, March 30, 2020 12:40 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Cc: Idsal, Anne <idsal.anne@epa.gov>; Kelley Raymond Ex. 6 Personal Privacy (PP) Dunham, Sarah <Dunham.Sarah@epa.gov>
Subject: FW: full text from Thursday

Jonathan, we are receding to these changes and with that we are complete and finished with all input and pass-back response. Regards, Karl

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

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Message

From: Kataoka, Mark [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1E29F87A97C343739016147A80F9C57D-MKATAOKA]
Sent: 3/26/2020 1:43:01 PM
To: Moran, Robin [moran.robin@epa.gov]; Bolon, Kevin [Bolon.Kevin@epa.gov]
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble
Attachments: SAFE Preamble Redlines EO12866 200325 Deliberative.docx

In case Bill didn't forward this redline yet

From: Orlin, David <Orlin.David@epa.gov>
Sent: March 26, 2020 7:22 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

Updated SAFE preamble (2/2)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Wednesday, March 25, 2020 8:47 PM
To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
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Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Tamm, James (NHTSA) <james.tamm@dot.gov>; 'Moor, Karl' <Moor.Karl@epa.gov>
Subject: DRAFT/DELIBERATIVE: Updated Preamble

Hi Sarah –

Please find attached a revised draft of the preamble. I will share a redline in a separate email.

Thanks.

Message

Sent: 3/27/2020 10:04:05 PM
To: Charmley, William [charmley.william@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]
Subject: Two "surprises" in NHTSA preamble -- supplier off-cycle pathway & pickup credits
Attachments: SAFE Preamble Redlines EO12866 200325 Deliberative (002).docx

Bill, when I was looking for that AC17 text for Sarah, I ran across two other problematic things in that 3/25 version of the NHTSA preamble:

Ex. 5 Deliberative Process (DP)

Robin Moran
Senior Policy Advisor
U.S. EPA, Office of Transportation and Air Quality
2000 Traverwood Dr.
Ann Arbor, MI 48105
(734) 214-4781

Message

From: Moran, Robin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CDC537A0F9D5433DAE083BCA681AF983-MORAN, ROBIN]
Sent: 3/26/2020 1:07:18 PM
To: Olechiw, Michael [olechiw.michael@epa.gov]; Bolon, Kevin [Bolon.Kevin@epa.gov]; Sherwood, Todd [sherwood.todd@epa.gov]; Moskalik, Andrew [Moskalik.Andrew@epa.gov]; McDonald, Joseph [mcdonald.joseph@epa.gov]; Helfand, Gloria [helfand.gloria@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]
Subject: FW: EPA staff review of NHTSA draft preamble - responsiveness to EPA's 2/5/2020 comments provided to NHTSA
Attachments: SAFE Preamble to EPA 200324 Deliberative, EPA Staff Edits_20200326.docx; EPA Highlevel Example Comments Not Addressed in 3-24 NHTSA SAFE Preamble_20200324.docx

Importance: High

Thanks everyone for your quick review of the new NHTSA preamble. I wanted you to see what Bill has sent on to Sarah, below.

From: Charmley, William <charmley.william@epa.gov>
Sent: Thursday, March 26, 2020 8:59 AM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: EPA staff review of NHTSA draft preamble - responsiveness to EPA's 2/5/2020 comments provided to NHTSA
Importance: High

Dear Sarah,

Many of the OTAQ staff dropped everything else they were working on yesterday to perform the review that Karl Moor requested – to look at the draft of the SAFE preamble which NHTSA provided to you and Karl on Tuesday, March 24 at 8:38pm, and to review this draft to see to what extent NHTSA has responded to the EPA comments provided to NHTSA on 2/5/2020.

Attached you will find a EPA markup of the 3/24/2020 preamble, and also a three page summary noting our findings. I have also copied that information into this email.

As you and I discussed yesterday, we were not able to completely review the 3/24 version, but certainly the staff were able to review many of the comments we provided in February.

In a separate email, because of the size of the files, I will also send you the 2/5/2020 version we provided to NHTSA for reference.

Thanks
 Bill

EPA Comments Not Addressed in the Latest (3/24/2020) Version of the NHTSA Pass-back of the SAFE Preamble, 3/26/2020

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 3/27/2020 1:00:45 PM
To: Sasser, Erika [Sasser.Erika@epa.gov]
Subject: FW: DRAFT/DELIBERATIVE: Update FRIA
Attachments: SAFE FRIA 200325 EO12866 Deliberative.docx

Not suggesting you look through this, but FYI

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Thursday, March 26, 2020 7:24 AM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Update FRIA

And update FRIA for SAFE

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Wednesday, March 25, 2020 8:48 PM
To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Update FRIA

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Sent: Wednesday, March 25, 2020 8:36 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Jim Tamm <james.tamm@dot.gov>; Moor, Karl <Moor.Karl@epa.gov>
Subject: DRAFT/DELIBERATIVE: Update FRIA

Sarah –

Please find an updated draft FRIA attached.

Thanks,
 Ross

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 3/27/2020 12:00:04 PM
To: Sasser, Erika [Sasser.Erika@epa.gov]
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble
Attachments: SAFE Preamble EO12866 200325 Deliberative.docx

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Thursday, March 26, 2020 7:20 AM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

Another updated version of the SAFE 2 preamble (1/2)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Wednesday, March 25, 2020 8:47 PM
To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: FW: DRAFT/DELIBERATIVE: Updated Preamble

From: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Sent: Wednesday, March 25, 2020 8:31 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Jim Tamm <james.tamm@dot.gov>; Moor, Karl <Moor.Karl@epa.gov>
Subject: DRAFT/DELIBERATIVE: Updated Preamble

Hi Sarah –

Please find attached a revised draft of the preamble. I will share a redline in a separate email.

Thanks.

Message

From: Brazauskas, Joseph [brazauskas.joseph@epa.gov]
Sent: 2/26/2020 12:10:14 AM
To: Bolen, Brittany [bolen.brittany@epa.gov]
Subject: Fwd: Urgent, SAFE rule

FYI

Joseph A. Brazauskas Jr.
Associate Administrator
Congressional and Intergovernmental Relations
U.S. EPA

Begin forwarded message:

From: "Schiermeyer, Corry" <schiermeyer.corry@epa.gov>
Date: February 25, 2020 at 7:01:52 PM EST
To: "Block, Molly" <block.molly@epa.gov>, "Tardif, Abigale (Abbie)" <Tardif.Abbie@epa.gov>, "Cory, Preston" <Cory.Preston@epa.gov>, "Moor, Karl" <Moor.Karl@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>
Cc: "Brazauskas, Joseph" <brazauskas.joseph@epa.gov>, "Voyles, Travis" <Voyles.Travis@epa.gov>
Subject: RE: Urgent, SAFE rule

My thoughts...OAR please clarify/add:

Ex. 5 Deliberative Process (DP)

From: Block, Molly <block.molly@epa.gov>
Sent: Tuesday, February 25, 2020 6:49 PM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: FW: Urgent, SAFE rule

Flagging. Someone should mention to AAW as well.

NHTSA said they're drafting a statement. Will share when it comes through.

Are there any particular feelings on how to move forward with this one?

Best,
Molly

From: Foldy, Ben <ben.foldy@wsj.com>
Sent: Tuesday, February 25, 2020 6:42 PM
To: Press <Press@epa.gov>
Subject: Urgent, SAFE rule

Hi-

My name's Ben Foldy and I'm an autos reporter at the Wall Street Journal. I've been reporting on the CAFE/SAFE issue and wanted to reach out to EPA for comment on a story I'm working on.

In the story I may include:

- The rule-making process has been delayed by friction between EPA and DoT
- Large parts of the rule are still not filed with OIRA and the rule now may not be finalized until summer
- The materials at OMB has been written almost entirely by DoT. Career staff at EPA had not seen the majority of the analysis or the rule in its assembled form until it was submitted to OMB.
- A Regulatory Impact Analysis has been submitted to the docket, but its text largely mirrors what had been submitted as the draft preamble, with the "text forthcoming" parts now deleted
- EPA staff have been critical of modeling performed by DoT and that feedback is being relayed directly to DoT in hard copy, potentially to avoid it being included in the public docket

I'm looking to file my story tomorrow at 12, so please call direct for any clarifications or discussions. I'm best reached at 313-330-4323 or ben.foldy@wsj.com.

Many thanks,
Ben

--

Ben Foldy
Autos Reporter, The Wall Street Journal
Mobile: 313-330-4323
E: ben.foldy@wsj.com T: @benfoldy

Message

From: Raymond, Kelley [Raymond.Kelley@epa.gov]
Sent: 3/30/2020 5:46:43 PM
To: Idsal, Anne [idsal.anne@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]
Subject: FW: edits
Attachments: language 3-30.docx

FYI

Kelley Raymond
Office of Air and Radiation
U.S. Environmental Protection Agency

From: Raymond, Kelley
Sent: Monday, March 30, 2020 1:46 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Cc: Moor, Karl <Moor.Karl@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: edits

Jonathan-

Just spoke with David on our end, and it looks like the attached is just getting up on management on all ends, so my apologies for that. If there's still time to put the text in with David's edit (within attached) that would be great. We understand though it we've passed the point of no return, if you will.

Thank you Jonathan!

Kelley Raymond
Senior Advisor for the Office of Air and Radiation
U.S. Environmental Protection Agency
Office: 202-564-2949
Cell: 202-924-3385
raymond.kelley@epa.gov

The highlighted is new text on p. 1394 in preamble that runs counter to E.O. 12866. Edits below

Ex. 5 Deliberative Process (DP)

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 4/28/2020 9:39:36 PM
To: Moran, Robin [moran.robin@epa.gov]; Charmley, William [charmley.william@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]
CC: Olechiw, Michael [olechiw.michael@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: RE: Question on docketing

Great, thank you all.

-----Original Message-----

From: Moran, Robin <moran.robin@epa.gov>
 Sent: Tuesday, April 28, 2020 4:15 PM
 To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
 Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
 Subject: RE: Question on docketing

Ex. 5 Deliberative Process (DP)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
 Sent: Tuesday, April 28, 2020 4:01 PM
 To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
 Cc: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
 Subject: RE: Question on docketing

Sarah -

Ex. 5 Deliberative Process (DP)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
 Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
 Sent: Tuesday, April 28, 2020 3:54 PM
 To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
 Subject: Question on docketing

Hi-
 I was hoping you could help confirm something for me, or point out where I am assuming something

Ex. 5 Deliberative Process (DP)

Thank you
 Sarah

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 1/29/2020 8:25:37 PM
To: Charmley, William [charmley.william@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]
Subject: RE: a few last minute things before our SAFE meeting with Sarah

Ex. 5 Deliberative Process (DP)

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, January 29, 2020 3:21 PM
To: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: a few last minute things before our SAFE meeting with Sarah

Dear all

Sarah has shared the following with me, that I would like you all to know in advance of our 3:30 with her today on the SAFE briefing.

Ex. 5 Deliberative Process (DP)

Thanks
Bill

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 1/15/2020 3:56:19 PM
To: Charmley, William [charmley.william@epa.gov]
CC: Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Subject: RE: A topic I would like to discuss with you in the next day or so

Thanks Bill. Let's talk about it. I totally understand how hard this is and want to think through with you what approach would make sense.

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, January 15, 2020 10:22 AM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: A topic I would like to discuss with you in the next day or so

Dear Sarah,

Ex. 5 Deliberative Process (DP)

Thanks
Bill

<< EXCERPT from the Draft SAFE Preamble sent to OMB on January 14, 2020>>

"None of this is to say that Autonomie and the CAFE model as developed and applied for the NPRM left no room for improvement. In the NPRM and RIA, the agencies discussed plans to continue work in a range of specific technical areas, and invited comment on all aspects of the analysis. As discussed below in Chapter VI, the agencies received extensive comment on the published model, inputs, and analysis, both in response to the NPRM and, for newly-introduced modeling capabilities (estimation of sales, scrappage, and employment effects), in response to additional peer review conducted in 2019. The agencies have carefully considered these comments, refined various specific technical aspects of the CAFE model (like the "effective cost" metric mentioned above), and have also updated inputs to both Autonomie and the CAFE model. **Especially given these refinements and updates, EPA maintains that for CO₂ rulemaking analysis, Autonomie and the CAFE**

model are technically superior to EPA's ALPHA and OMEGA models. Therefore, having the discretion to select among available methods for conducting rulemaking analysis, and recognizing that models inform but do not make regulatory decisions, EPA has elected to rely solely on the Autonomie and CAFE models to produce today's analysis of regulatory alternatives for CO₂ standards.

Message

From: Charmley, William [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FB1828FB00AF42FFB68B9E0A71626D95-CHARMLEY, WILLIAM]
Sent: 3/4/2020 11:59:50 AM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Moran, Robin [moran.robin@epa.gov]
CC: Burch, Julia [Burch.Julia@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Sherwood, Todd [sherwood.todd@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Bolon, Kevin [Bolon.Kevin@epa.gov]
Subject: RE: OIRA requests related to SAFE process

Sarah –

This makes sense. Before you reach out to Ross, I would like to have Robin, Kevin and Todd take a look at the document as well and see if they agree with my review that #2 and #5 are the items EPA should review, or if there are others.

Ex. 5 Deliberative Process (DP)

Robin – can you take the lead on this today and get back to me?

Thanks
Bill

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Tuesday, March 03, 2020 8:52 PM
To: Charmley, William <charmley.william@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>
Subject: Re: OIRA requests related to SAFE process

Ex. 5 Deliberative Process (DP)

On Mar 3, 2020, at 4:13 PM, Charmley, William <charmley.william@epa.gov> wrote:

Dear Julia, Sarah and Seth,

I have attached the document which the OIRA desk officer, Matthew Oreska, is referring to, which Sarah received this past Friday. Here was the group of people that Matthew sent this information to:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks
Bill

From: Burch, Julia <Burch.Julia@epa.gov>
Sent: Tuesday, March 03, 2020 2:49 PM
To: Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>
Cc: Sherwood, Todd <sherwood.todd@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: OIRA requests related to SAFE process
Importance: High

I just got off the phone with Matthew Oreska in OIRA. He requested following:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

These seem like minor requests but given that its about SAFE, please feel free to share with Sarah as you see fit.

Please let me know if you have questions or want to discuss further.

Thanks!

Regards,

Julia Burch
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202-564-0961

<Interaegncy comments 2.28.docx>

Message

From: Charmley, William [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FB1828FB00AF42FFB68B9E0A71626D95-CHARMLEY, WILLIAM]
Sent: 1/10/2020 5:01:46 PM
To: Nickerson, William [Nickerson.William@epa.gov]
CC: Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Julia Burch (Burch.Julia@epa.gov) [Burch.Julia@epa.gov]; Robin Moran [Moran.Robin@epa.gov]
Subject: Direction from AA Idsal regarding SAFE rule and interactions with OIRA

Dear Bill,

Ex. 5 Deliberative Process (DP)

Thanks
Bill

Begin forwarded message:

From: "Idsal, Anne" <idsal.anne@epa.gov>
Date: January 2, 2020 at 12:34:18 PM EST
To: Rosario Palmieri <rpalmieri@omb.eop.gov>
Cc: "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Moor, Karl" <Moor.Karl@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, James Owens <James.Owens@dot.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>
Subject: Updates/touching base

Good afternoon and happy new year,

I wanted to touch base as we get back into the swing of things going into the new year.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Please let me know if I can provide any further clarification or assistance as we continue to move towards finalization on this important regulatory initiative.

Best,
Anne

Sent from my iPhone

Message

Sent: 4/28/2020 9:43:27 PM
Subject: docketing

Hi Karl-

Ex. 5 Deliberative Process (DP)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Tuesday, April 28, 2020 3:54 PM
To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Question on docketing

Hi-
I was hoping you could help confirm something for me, or point out where I am assuming something

Ex. 5 Deliberative Process (DP)

Thank you
Sarah

Message

From: Moor, Karl [Moor.Karl@epa.gov]
Sent: 4/29/2020 4:56:46 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Re: your question from this afternoon

Sarah, sorry for the delay, will dial you after my 1 pm if that is ok?

Regards, Karl

> On Apr 29, 2020, at 8:55 AM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:

>

> Hi Karl-

> If you have a couple minutes today for a short call on this topic below, I'd like to give some context. Please let me know if there is a good time for you to talk.

> Thanks

> Sarah

>

> -----Original Message-----

> From: Dunham, Sarah

> Sent: Tuesday, April 28, 2020 5:45 PM

> To: Moor, Karl <Moor.Karl@epa.gov>

> Subject: your question from this afternoon

>

> Hi Karl-

>

> To the best of staff knowledge and memory, in our prior joint rulemakings, material that we shared directly and only with NHTSA we did not docket. We used this same approach for the Heavy-duty Phase 2 GHG rule in addition to the 2012 light duty rule.

>

> For example, if during the interagency review process during the 2012 Light-duty rule, or during the Heavy-duty Phase 2 rule, we received written questions from OIRA, we would docket those questions. We would then typically work with NHTSA on draft responses to those questions - each agency would review and agree upon the responses. Then we would send the response back to OIRA, and we would docket the response. But, we would not docket the back-and-forth responses between EPA and NHTSA.

>

> Sarah

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 4/29/2020 6:05:15 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Willey, Katharine [willey.katharine@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: Request
Attachments: SAFE docketing explanation 042920.docx

Flag: Flag for follow up

David,

Ex. 5 Attorney Client (AC)

I also took a look at the talking points you sent and they looked fine to me, but I've also asked Winnie to look them over since she covered SAFE step 1 for ARLO.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:36 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:33 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin

U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:52 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Will do.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Thanks, Katharine. I'm adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Fotouhi, David <Fotouhi.David@epa.gov>

Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 4/29/2020 4:32:29 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]; Willey, Katharine [willey.katharine@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Request

Ok.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:52 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Will do.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 4/29/2020 6:27:16 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]; Willey, Katharine [willey.katharine@epa.gov]
Subject: RE: Request

Ex. 5 AC/DP

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, April 29, 2020 2:25 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Faulty memory on my part.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:14 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: Re: Request

Ex. 5 AC/DP

Sent from my iPhone

On Apr 29, 2020, at 2:12 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

Ex. 5 AC/DP

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:36 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:33 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:52 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Will do.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
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From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

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Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 4/29/2020 4:36:11 PM
To: Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Willey, Katharine [willey.katharine@epa.gov]
Subject: RE: Request
Attachments: DRAFT SAFE Part 1 Talking Points.docx

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

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fotouhi.david@epa.gov

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Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin
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 (202) 564-1222

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Sent: Wednesday, April 29, 2020 12:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

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 Office of General Counsel
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fotouhi.david@epa.gov

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Sent: Tuesday, April 28, 2020 4:52 PM

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Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Will do.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
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Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 3/25/2020 7:20:06 PM
To: Matthew Leopold (Leopold.Matt@epa.gov) [Leopold.Matt@epa.gov]
Subject: FW: DOJ comments on SAFE step section 8.A (EPA rationale)
Attachments: SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20 comments EPA Response 3-25-20 pm.docx

Here's the draft from staff—this includes edits from OTAQ and ARLO. I will review now.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 2:59 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Ex. 5 AC/DP

Note that the document is still anonymous, but generally if you see a comment bubble that does not have a response that should be a comment I added to flag new text (or in one place, a comment NHTSA did not take that I thought I'd point out). In general I leaned towards trying to suggest responses to comments, even ones we did not explicitly discuss on Monday night, because I figured it would work better for you to see a suggested response and be able to decide whether to make those changes, rather than to leave comments completely unaddressed. Also note that in general the comment bubbles are meant to be internal, and not to be part of the passback to OIRA.

Let me know if you'd like to discuss anything, or we can be of further assistance,

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, March 25, 2020 12:11 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Ex. 5 AC/DP

attached. Please take a look and see if anything there can be added to our section to be responsive to DOJ's comment.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 11:55 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Hi David,

We're trying to coordinate with OTAQ, since some of the comments go to the record, but we should be able to get you something by 3, and perhaps a little earlier.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, March 25, 2020 11:07 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Gautam, David, Mark, just checking on when I can expect to receive the results of your work to implement and/or respond to DOJ's comments in section 8(A). I think you were targeting this morning? I've been told that we need to provide a passback to OIRA by the end of the day today, so I would appreciate receiving the draft with your edits by no later than 3pm. Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, March 20, 2020 4:30 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: DOJ comments on SAFE step section 8.A (EPA rationale)

Matt and David,

We received what appear to be DOJ's written comments on section 8.a (EPA rationale) of the SAFE step 2 rule yesterday, and, consistent with our discussion yesterday afternoon, we have annotated the document with comment bubbles noting comments we heard on the call in the attached document. Please note however, that DOJ's written comments were transmitted with an email from OIRA which provided the following "overarching" comments—

Ex. 5 AC/DP

In addition, the email from OIRA contained a separate copy of the full preamble which included additional interagency comments on section 8.a. It's not clear to us what agency provided those comments, and we have not to date added them into the attached document, but we could if that would be convenient (although given the current privacy settings on the document we would lose the distinction between the two sets of comments).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 5/8/2020 8:33:47 PM
To: Brightbill, Jonathan (ENRD) [Jonathan.Brightbill@usdoj.gov]
CC: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: SAFE NOI
Attachments: 60-Day-Notice-of-Intent-to-Sue-for-Failure-to-Docket-Interagency-Review-Materials-FINAL.pdf

Jon, the EDF action today on SAFE is an NOI based on docketing arguments. Copying Jonathan for awareness.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Tardif, Abigale (Abbie) [Tardif.Abbie@epa.gov]
Sent: 2/26/2020 2:32:02 PM
To: Schiermeyer, Corry [schiermeyer.corry@epa.gov]
CC: Block, Molly [block.molly@epa.gov]; Cory, Preston [Cory.Preston@epa.gov]; Moor, Karl [Moor.Karl@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Brazauskas, Joseph [brazauskas.joseph@epa.gov]; Voyles, Travis [Voyles.Travis@epa.gov]
Subject: RE: Urgent, SAFE rule

Corry-

Below is the OAR statement.

Over the past few months, EPA and NHSTA have been working to finalize the SAFE rule. This rule will reduce air emissions and ensure vehicle fuel efficiency. The rule is currently under interagency review, EPA is focused on continuing to work with NHTSA and OMB to ensure the finalization of the SAFE Rule.

Best,
 Abbie

Abigale Tardif
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 Desk: 202-564-5643 | Cell: 202-738-7297

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>
Sent: Tuesday, February 25, 2020 9:36 PM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>
Cc: Block, Molly <block.molly@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Molina, Michael <molina.michael@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: Re: Urgent, SAFE rule

I talked to Anne...this seems fine to us. I'm going to hold off responding to WSJ at least until tomorrow morning.

We may have to add in the 'reduce costs and save lives' portion (usually a AAW request)...but maybe not this time.

Thank you!

Sent from my iPhone

On Feb 25, 2020, at 8:27 PM, Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov> wrote:

Here is a rough draft of a response. I think keeping it vague and not responding to specifics is best.

Over the past few months, EPA and NHSTA have been working to finalize the SAFE rule. This rule will reduce air emissions and ensure vehicle fuel efficiency.

The rule is currently under interagency review, EPA is focused on continuing to work with NHTSA and OMB to ensure the finalization of the SAFE Rule.

Best,
Abbie

On Feb 25, 2020, at 7:02 PM, Block, Molly <block.molly@epa.gov> wrote:

NHTSA's draft:

Attributable to NHTSA:

"The Safe Vehicles Final Rule marks the culmination of over one year of close collaboration between EPA and NHTSA. The SAFE Vehicles Rule considers and responds to hundreds of thousands of public comments and incorporates extensive scientific and economic analyses from NHTSA and EPA experts. The Rule is under interagency review and we expect it to be published soon. The rule will benefit all Americans by improving the U.S. fleet's fuel economy, reducing air pollution, and making new vehicles more affordable."

For your background guidance:

I would refer you to the Rule's expected date published in NHTSA's Significant Rulemaking Report.

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>

Sent: Tuesday, February 25, 2020 7:02 PM

To: Block, Molly <block.molly@epa.gov>; Tardif, Abigale (Abbie)

<Tardif.Abbie@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl

<Moor.Karl@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David

<harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>;

Molina, Michael <molina.michael@epa.gov>

Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis

<Voyles.Travis@epa.gov>

Subject: RE: Urgent, SAFE rule

My thoughts...OAR please clarify/add:

#1...we say that is just not true

#2...please talk to OMB/OIRA

#3...? We should not take the heat for this...EPA political and career staff have been working closely with NHTSA for months to finalize the rule and get it to OMB, where it remains under interagency review.

#4 and #5...not sure...and we don't need to answer.

I would say we stick with something general...as we have been saying:

EPA political and career staff have been working closely with NHTSA for months to finalize the rule and get it to OMB, where it remains under interagency review. EPA is focused on continuing to work with NHTSA and OMB to ensure the finalization of the SAFE Rule. When finalized, the SAFE Rule will reduce the cost of new vehicles and save lives.

From: Block, Molly <block.molly@epa.gov>
Sent: Tuesday, February 25, 2020 6:49 PM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: FW: Urgent, SAFE rule

Flagging. Someone should mention to AAW as well.

NHTSA said they're drafting a statement. Will share when it comes through.

Are there any particular feelings on how to move forward with this one?

Best,
Molly

From: Foldy, Ben <ben.foldy@wsj.com>
Sent: Tuesday, February 25, 2020 6:42 PM
To: Press <Press@epa.gov>
Subject: Urgent, SAFE rule

Hi-

My name's Ben Foldy and I'm an autos reporter at the Wall Street Journal. I've been reporting on the CAFE/SAFE issue and wanted to reach out to EPA for comment on a story I'm working on.

In the story I may include:

- The rule-making process has been delayed by friction between EPA and DoT
- Large parts of the rule are still not filed with OIRA and the rule now may not be finalized until summer
- The materials at OMB has been written almost entirely by DoT. Career staff at EPA had not seen the majority of the analysis or the rule in its assembled form until it was submitted to OMB.
- A Regulatory Impact Analysis has been submitted to the docket, but its text largely mirrors what had been submitted as the draft preamble, with the "text forthcoming" parts now deleted

-- EPA staff have been critical of modeling performed by DoT and that feedback is being relayed directly to DoT in hard copy, potentially to avoid it being included in the public docket

I'm looking to file my story tomorrow at 12, so please call direct for any clarifications or discussions. I'm best reached at 313-330-4323 or ben.foldy@wsj.com.

Many thanks,
Ben

--

Ben Foldy

Autos Reporter, The Wall Street Journal

Mobile: 313-330-4323

E: ben.foldy@wsj.com T: @benfoldy

Message

From: Moor, Karl [Moor.Karl@epa.gov]
Sent: 2/26/2020 12:50:46 AM
To: Cory, Preston [Cory.Preston@epa.gov]
CC: Schiermeyer, Corry [schiermeyer.corry@epa.gov]; Block, Molly [block.molly@epa.gov]; Tardif, Abigale (Abbie) [Tardif.Abbie@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Brazauskas, Joseph [brazauskas.joseph@epa.gov]; Voyles, Travis [Voyles.Travis@epa.gov]
Subject: Re: Urgent, SAFE rule

Agree and standing by for a few changes that Abby suggested

On Feb 25, 2020, at 7:46 PM, Cory, Preston <Cory.Preston@epa.gov> wrote:

I would recommend our statement parallel NHTSA's.

Further background for consideration:

- EPA is responsible for the portions of the rule that fall under its statutory authority granted by Title II of the Clean Air Act (CAA). EPA will continue to work on the SAFE FRM in tandem with NHTSA under the authority granted to the agency by the CAA.
- The agencies have determined that its "reasonable and appropriate to use the NHTSA models"
- EPA interprets CAA 202(a) as giving the agency **broad discretion** in how it develops and sets Greenhouse Gas standards. Nothing in the Clean Air Act mandates the use of a specific model.

On Feb 25, 2020, at 7:04 PM, Schiermeyer, Corry <schiermeyer.corry@epa.gov> wrote:

I will send a note to AAW and let him know the WSJ is working on a story. When we have our final statement, I will send both our response and NHTSA's response to AAW.

Thank you!

From: Block, Molly <block.molly@epa.gov>
Sent: Tuesday, February 25, 2020 7:02 PM
To: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: RE: Urgent, SAFE rule

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Attributable to NHTSA:

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For your background guidance:

I would refer you to the Rule’s expected date published in NHTSA’s Significant Rulemaking Report.

From: Schiermeyer, Corry <schiermeyer.corry@epa.gov>

Sent: Tuesday, February 25, 2020 7:02 PM

To: Block, Molly <block.molly@epa.gov>; Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Molina, Michael <molina.michael@epa.gov>

Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>

Subject: RE: Urgent, SAFE rule

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I would say we stick with something general...as we have been saying:

EPA political and career staff have been working closely with NHTSA for months to finalize the rule and get it to OMB, where it remains under interagency review. EPA is focused on continuing to work with NHTSA and OMB to ensure the finalization of the SAFE Rule. When finalized, the SAFE Rule will reduce the cost of new vehicles and save lives.

From: Block, Molly <block.molly@epa.gov>

Sent: Tuesday, February 25, 2020 6:49 PM

To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>; Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Idsal, Anne

<idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>; Brazauskas, Joseph <brazauskas.joseph@epa.gov>; Voyles, Travis <Voyles.Travis@epa.gov>
Subject: FW: Urgent, SAFE rule

Flagging. Someone should mention to AAW as well.

NHTSA said they're drafting a statement. Will share when it comes through.

Are there any particular feelings on how to move forward with this one?

Best,
Molly

From: Foldy, Ben <ben.foldy@wsj.com>
Sent: Tuesday, February 25, 2020 6:42 PM
To: Press <Press@epa.gov>
Subject: Urgent, SAFE rule

Hi-

My name's Ben Foldy and I'm an autos reporter at the Wall Street Journal. I've been reporting on the CAFE/SAFE issue and wanted to reach out to EPA for comment on a story I'm working on.

In the story I may include:

- The rule-making process has been delayed by friction between EPA and DoT
- Large parts of the rule are still not filed with OIRA and the rule now may not be finalized until summer
- The materials at OMB has been written almost entirely by DoT. Career staff at EPA had not seen the majority of the analysis or the rule in its assembled form until it was submitted to OMB.
- A Regulatory Impact Analysis has been submitted to the docket, but its text largely mirrors what had been submitted as the draft preamble, with the "text forthcoming" parts now deleted
- EPA staff have been critical of modeling performed by DoT and that feedback is being relayed directly to DoT in hard copy, potentially to avoid it being included in the public docket

I'm looking to file my story tomorrow at 12, so please call direct for any clarifications or discussions. I'm best reached at 313-330-4323 or ben.foldy@wsj.com.

Many thanks,
Ben

--

Ben Foldy

Autos Reporter, The Wall Street Journal
Mobile: 313-330-4323
E: ben.foldy@wsj.com T: @benfoldy

Message

From: Idsal, Anne [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B1BECA8121FB47A08E82B6BF2247A79B-IDSAL, ANNE]
Sent: 2/26/2020 12:23:50 PM
To: Tardif, Abigale (Abbie) [Tardif.Abbie@epa.gov]
Subject: Re: Urgent, SAFE rule

Absolutely.

Sent from my iPhone

On Feb 25, 2020, at 9:49 PM, Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov> wrote:

Hi Anne-

Ex. 5 Deliberative Process (DP)

Best,
Abbie

Begin forwarded message:

From: "Schiermeyer, Corry" <schiermeyer.corry@epa.gov>
Date: February 25, 2020 at 9:36:06 PM EST
To: "Tardif, Abigale (Abbie)" <Tardif.Abbie@epa.gov>
Cc: "Block, Molly" <block.molly@epa.gov>, "Cory, Preston" <Cory.Preston@epa.gov>, "Moor, Karl" <Moor.Karl@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>, "Brazauskas, Joseph" <brazauskas.joseph@epa.gov>, "Voyles, Travis" <Voyles.Travis@epa.gov>
Subject: Re: Urgent, SAFE rule

I talked to Anne...this seems fine to us. I'm going to hold off responding to WSJ at least until tomorrow morning.

Ex. 5 Deliberative Process (DP)

Thank you!

Sent from my iPhone

On Feb 25, 2020, at 8:27 PM, Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov> wrote:

Here is a rough draft of a response. I think keeping it vague and not responding to specifics is best.

Ex. 5 Deliberative Process (DP)

Best,
Abbie

On Feb 25, 2020, at 7:02 PM, Block, Molly
<block.molly@epa.gov> wrote:

NHTSA's draft:

Ex. 5 Deliberative Process (DP)

For your background guidance:

I would refer you to the Rule's expected date published
in NHTSA's Significant Rulemaking Report.

From: Schiermeyer, Corry
<schiermeyer.corry@epa.gov>
Sent: Tuesday, February 25, 2020 7:02 PM
To: Block, Molly <block.molly@epa.gov>; Tardif, Abigale
(Abbie) <Tardif.Abbie@epa.gov>; Cory, Preston
<Cory.Preston@epa.gov>; Moor, Karl
<Moor.Karl@epa.gov>; Idsal, Anne
<idsal.anne@epa.gov>; Harlow, David
<harlow.david@epa.gov>; Dominguez, Alexander
<dominguez.alexander@epa.gov>; Molina, Michael
<molina.michael@epa.gov>

Cc: Brazauskas, Joseph <brazauskas.joseph@epa.gov>;
Voyles, Travis <Voyles.Travis@epa.gov>
Subject: RE: Urgent, SAFE rule

My thoughts...OAR please clarify/add:

Ex. 5 Deliberative Process (DP)

I would say we stick with something general...as we
have been saying:

Ex. 5 Deliberative Process (DP)

From: Block, Molly <block.molly@epa.gov>
Sent: Tuesday, February 25, 2020 6:49 PM
To: Tardif, Abigale (Abbie) <Tardif.Abbie@epa.gov>;
Cory, Preston <Cory.Preston@epa.gov>; Moor, Karl
<Moor.Karl@epa.gov>; Idsal, Anne
<idsal.anne@epa.gov>; Harlow, David
<harlow.david@epa.gov>; Dominguez, Alexander
<dominguez.alexander@epa.gov>; Molina, Michael
<molina.michael@epa.gov>
Cc: Schiermeyer, Corry <schiermeyer.corry@epa.gov>;
Brazauskas, Joseph <brazauskas.joseph@epa.gov>;
Voyles, Travis <Voyles.Travis@epa.gov>
Subject: FW: Urgent, SAFE rule

Flagging. Someone should mention to AAW as well.

NHTSA said they're drafting a statement. Will share
when it comes through.

Are there any particular feelings on how to move
forward with this one?

Best,
Molly

From: Foldy, Ben <ben.foldy@wsj.com>
Sent: Tuesday, February 25, 2020 6:42 PM
To: Press <Press@epa.gov>
Subject: Urgent, SAFE rule

Hi-

My name's Ben Foldy and I'm an autos reporter at the Wall Street Journal. I've been reporting on the CAFE/SAFE issue and wanted to reach out to EPA for comment on a story I'm working on.

In the story I may include:

- The rule-making process has been delayed by friction between EPA and DoT
- Large parts of the rule are still not filed with OIRA and the rule now may not be finalized until summer
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- A Regulatory Impact Analysis has been submitted to the docket, but its text largely mirrors what had been submitted as the draft preamble, with the "text forthcoming" parts now deleted
- EPA staff have been critical of modeling performed by DoT and that feedback is being relayed directly to DoT in hard copy, potentially to avoid it being included in the public docket

I'm looking to file my story tomorrow at 12, so please call direct for any clarifications or discussions. I'm best reached at 313-330-4323 or ben.foldy@wsj.com.

Many thanks,
Ben

--

Ben Foldy
Autos Reporter, The Wall Street Journal
Mobile: 313-330-4323
E: ben.foldy@wsj.com T: @benfoldy

Message

Sent: 3/25/2020 9:54:22 PM
To: Fotouhi, David [fotouhi.david@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, March 25, 2020 5:39 PM
To: Orlin, David <Orlin.David@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Suggestions from Matt and me are tracked in bubble comments highlighted in yellow in the attached version. Let me know if you have any questions about these. Once these are implemented and the internal bubble comments removed, we are good from an OGC perspective. We defer to OAR on any additional edits and transmitting to NHTSA and OIRA as you see fit.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 3:48 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David

Sent: Wednesday, March 25, 2020 3:40 PM

To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>

Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (<Kataoka.Mark@epa.gov>) <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin

U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Tardif, Abigale (Abbie) [Tardif.Abigale@epa.gov]
Sent: 5/18/2020 12:51:23 PM
To: Cory, Preston [Cory.Preston@epa.gov]
CC: Moor, Karl [Moor.Karl@epa.gov]
Subject: Updated SAFE 1-Pager
Attachments: OAR-3 SAFE AT EDITS 05.18.2020.docx

Preston-

Attached is the updated SAFE 1-page for OCIR, to send over with the other remaining 1-pagers for the binder.

Best,
Abbie

Abigale Tardif
Policy and Communications Advisor
Office of Air and Radiation
U.S. Environmental Protection Agency
Desk: 202-564-5643 | Cell: 202-738-7297

Message

From: Tardif, Abigale (Abbie) [Tardif.Abigale@epa.gov]
Sent: 5/15/2020 6:43:30 PM
To: Moor, Karl [Moor.Karl@epa.gov]
CC: Cory, Preston [Cory.Preston@epa.gov]
Subject: SAFE 1-Pager REVIEW
Attachments: OAR-3 SAFE 05.13.2020 OGC edits (003)_TV AT EDITS 05.15.2020.docx

Karl-

Attached is the updated SAFE 1-pager with the information the Administrator was looking for. If I am missing anything please add it in or edit where you think it is necessary.

Best,
Abbie

Abigale Tardif
Policy and Communications Advisor
Office of Air and Radiation
U.S. Environmental Protection Agency
Desk: 202-564-5643 | Cell: 202-738-7297

Message

From: Tardif, Abigale (Abbie) [Tardif.Abigale@epa.gov]
Sent: 5/11/2020 6:56:19 PM
To: Moor, Karl [Moor.Karl@epa.gov]
Subject: SAFE 1-Pager
Attachments: OAR-3 SAFE 05.11.2020 EDITS.docx

Karl-

Attached is a rough draft of the SAFE 1-pager. It is not currently in the proper format, I just wanted you to be able to see what I added. I will change the formatting after we chat at 4:30PM.

I did mark the two questions I could not answer.

Best,
Abbie

Abigale Tardif
Policy and Communications Advisor
Office of Air and Radiation
U.S. Environmental Protection Agency
Desk: 202-564-5643 | Cell: 202-738-7297

Message

From: Moor, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54EEA103CD094C3E92B1C4B459FDB45D-MOOR, KARL]
Sent: 3/25/2020 8:37:09 PM
To: Orlin, David [Orlin.David@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Ok

Regards, Karl

On Mar 25, 2020, at 4:20 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Hi Karl,

Just for clarity, I think OGC's understanding is that OAR would be transmitting these comments on to NHTSA and/or OIRA, so I am happy to collect comments, but I am also fine if you want to wait for any additional comments from David Fotouhi, and then make your edits before sending them on to be passed back.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Wednesday, March 25, 2020 4:10 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Need to get you comments

Regards, Karl

On Mar 25, 2020, at 3:47 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Deliberative Process (DP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20 comments EPA Response 3-25-20 pm rev.docx>

Message

From: Moor, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54EEA103CD094C3E92B1C4B459FDB45D-MOOR, KARL]
Sent: 3/25/2020 8:15:39 PM
To: Harlow, David [harlow.david@epa.gov]
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Ex. 6 Personal Privacy (PP)

Regards, Karl

On Mar 25, 2020, at 4:14 PM, Harlow, David <harlow.david@epa.gov> wrote:

Karl,

Happy to but I don't think I have your number.

David S. Harlow
Senior Counsel
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Wednesday, March 25, 2020 4:11 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

David Harlow, could you please call me

Regards, Karl

On Mar 25, 2020, at 4:09 PM, Fotouhi, David <Fotouhi.David@epa.gov> wrote:

Karl, I'm happy to discuss. I understand our staffs worked together to implement the edits that are included in the draft David O. circulated below. I'm reviewing those edits now (I will have some tweaks to how the staff implemented the comments).

I don't know the process or exact timing for passing back to OIRA—I've just been told that we need to provide the revised section today. My guess is that the draft would follow the usual path of OAR to NHTSA to OIRA, but I defer to you all on this.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Wednesday, March 25, 2020 4:05 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

David F., I need to get you some changes and discuss; on call now, what time does this have to be in?

Regards, Karl

On Mar 25, 2020, at 3:47 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("Ex. 5 Attorney Work Product (AWP) disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka <Kataoka.Mark@epa.gov>
<Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

Subject: draft responses to DOJ comments on SAFE step 2 section 8.a
(EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20
comments EPA Response 3-25-20 pm rev.docx>

Message

From: Moor, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54EEA103CD094C3E92B1C4B459FDB45D-MOOR, KARL]
Sent: 4/28/2020 9:57:37 PM
To: Gustafson, Adam [Gustafson.Adam@epa.gov]
Subject: Re: your question from this afternoon

Adam, my fault, you did not request this information and I shared it on my on my own initiative to a larger group.

Regards, Karl

On Apr 28, 2020, at 5:55 PM, Gustafson, Adam <Gustafson.Adam@epa.gov> wrote:

I'm deleting this without reading because I'm recused on SAFE.

Adam Gustafson
 Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 202-564-7263 (desk)
 202-836-3570 (cell)

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Tuesday, April 28, 2020 5:50 PM
To: Idsal, Anne <idsal.anne@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Gustafson, Adam <Gustafson.Adam@epa.gov>; abbie@usepa.onmicrosoft.com
Subject: Fwd: your question from this afternoon

All, FYI.

Regards, Karl

Begin forwarded message:

From: "Dunham, Sarah" <Dunham.Sarah@epa.gov>
Date: April 28, 2020 at 5:45:22 PM EDT
To: "Moor, Karl" <Moor.Karl@epa.gov>
Subject: your question from this afternoon

Hi Karl-

To the best of staff knowledge and memory, in our prior joint rulemakings, material that we shared directly and only with NHTSA we did not docket. We used this same approach for the Heavy-duty Phase 2 GHG rule in addition to the 2012 light duty rule.

For example, if during the interagency review process during the 2012 Light-duty rule, or during the Heavy-duty Phase 2 rule, we received written questions from OIRA, we would docket those questions. We would then typically work with NHTSA on draft responses to those questions - each agency would review and agree upon the responses. Then we

would send the response back to OIRA, and we would docket the response. But, we would not docket the back-and-forth responses between EPA and NHTSA.

Sarah

Message

Sent: 4/29/2020 6:59:34 PM
To: Fotouhi, David [fotouhi.david@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Willey, Katharine [willey.katharine@epa.gov]
Subject: RE: Request

Charmley is back in the office and wanted to flag one sentence whose meaning got somewhat changed as a result of some small textual edits—

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:32 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Request

Thank you for this draft writeup; I appreciate it.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:05 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Request

David,

Attached please find the short writeup on our docketing practice for joint rules with NHTSA under CAA 307(d) and our rationale for it (as well as some additional background information on how the interagency process was different for SAFE II even though the approach to docketing was the same). (Note: I think Bill Charmley may be presenting at a meeting today so I don't know if he has had a chance to review it but his staff has.)

I also took a look at the talking points you sent and they looked fine to me, but I've also asked Winnie to look them over since she covered SAFE step 1 for ARLO.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:36 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:33 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:52 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Will do.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Tuesday, April 28, 2020 4:45 PM

To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Thanks, Katharine. I'm adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>

Sent: Tuesday, April 28, 2020 4:39 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Fotouhi, David <Fotouhi.David@epa.gov>

Subject: Request

Ex. 5 Attorney Client (AC)

Message

Sent: 4/28/2020 8:54:34 PM
To: Moran, Robin [moran.robin@epa.gov]; Charmley, William [charmley.william@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]
CC: Olechiw, Michael [olechiw.michael@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Subject: RE: Question on docketing

Leaving off Sarah for now.

FYI I got asked by our front office to put together a description of our position on docketing for this rule and specifically whether the docketing process for this rule was completely consistent with the docketing process for prior rules. The background for the request was in this email--

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.robin@epa.gov>
Sent: Tuesday, April 28, 2020 4:15 PM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Ex. 5 Deliberative Process (DP)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, April 28, 2020 4:01 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Sarah -

Ex. 5 Deliberative Process (DP)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

Ex. 5 Deliberative Process (DP)

Thank you
Sarah

Message

Sent: 3/25/2020 8:16:36 PM
To: Moor, Karl [Moor.Karl@epa.gov]
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Hi Karl,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Wednesday, March 25, 2020 4:10 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Need to get you comments

Regards, Karl

On Mar 25, 2020, at 3:47 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20 comments EPA Response 3-25-20
pm rev.docx>

Message

Sent: 3/25/2020 7:10:02 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Charmley, William [charmley.william@epa.gov]; Moran, Robin [moran.robin@epa.gov]
Subject: FW: DOJ comments on SAFE step section 8.A (EPA rationale)
Attachments: SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20 comments EPA Response 3-25-20 pm.docx

FYI, attached is what I just sent David Fotouhi as proposed responses to the DOJ comments on the EPA rationale for SAFE step 2.

Many thanks to Bill and Robin for helping with some of the record-based issues. David indicated we are supposed to provide a passback to OIRA today, and I see there is a tentative call set for Friday morning to go over the passback.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 2:59 PM
To: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Ex. 5 AC/DP

Note that the document is still anonymous, but generally if you see a comment bubble that does not have a response that should be a comment I added to flag new text (or in one place, a comment NHTSA did not take that I thought I'd point out). In general I leaned towards trying to suggest responses to comments, even ones we did not explicitly discuss on Monday night, because I figured it would work better for you to see a suggested response and be able to decide whether to make those changes, rather than to leave comments completely unaddressed. Also note that in general the comment bubbles are meant to be internal, and not to be part of the passback to OIRA.

Let me know if you'd like to discuss anything, or we can be of further assistance,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

Sent: 3/26/2020 2:07:36 PM
To: Charmley, William [charmley.william@epa.gov]
Subject: FW: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Thursday, March 26, 2020 7:25 AM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

PS it occurred to me that another reason to simply strip all comment bubbles from the document before sending it back, rather than being selective, is that some of the incoming comments do not appear on the version we got from OIRA—rather they were oral comments that we put into comments for internal discussion. Thus, if we are sending back a version with any comment bubbles it may be a good idea to eliminate both the comments and the responses that were intended for internal use.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 6:02 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

For convenience, I have gone through and where David and Matt have suggested edits to the text I have reflected those in the attached (e.g., restored paragraphs they indicated should be retained, deleted phrases that should be deleted).

I have not touched the comment bubbles, except to add the alternative version of the last sentence to the last comment bubble for convenience/consideration. I'll be offline for a while, but per David's note I think OGC is good now and would defer to OAR on further edits and cleaning up the comment bubbles.

Thanks,

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, March 25, 2020 5:39 PM
To: Orlin, David <Orlin.David@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Suggestions from Matt and me are tracked in bubble comments highlighted in yellow in the attached version. Let me know if you have any questions about these. Once these are implemented and the internal bubble comments removed, we are good from an OGC perspective. We defer to OAR on any additional edits and transmitting to NHTSA and OIRA as you see fit.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 3:48 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 AC/DP

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

Sent: 4/1/2020 2:05:10 PM
To: Kataoka, Mark [Kataoka.Mark@epa.gov]; Carrillo, Andrea [Carrillo.Andrea@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: Status Update on Docketing for SAFE FRM

Ex. 5 Attorney Client (AC)

Winnie—am I remembering/describing that correctly?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, April 01, 2020 10:00 AM
To: Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Status Update on Docketing for SAFE FRM

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
 Attorney
 EPA OGC ARLO (2344A)
 202-564-5584

From: Orlin, David <Orlin.David@epa.gov>
Sent: April 01, 2020 9:31 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: FW: Status Update on Docketing for SAFE FRM

If you think we should discuss this further let me know.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, April 01, 2020 9:30 AM
To: Olechiw, Michael <olechiw.michael@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Cherry, Jeff <Cherry.Jeff@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Wysor, Tad <wysor.tad@epa.gov>
Subject: RE: Status Update on Docketing for SAFE FRM

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Olechiw, Michael <olechiw.michael@epa.gov>

Sent: Wednesday, April 01, 2020 9:22 AM

To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>

Cc: Burch, Julia <Burch.Julia@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Cherry, Jeff <Cherry.Jeff@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Wysor, Tad <wysor.tad@epa.gov>

Subject: Status Update on Docketing for SAFE FRM

Colleagues,

Ex. 5 Deliberative Process (DP)

Please let me know if you have questions, comments or guidance.

Mike

Message

Sent: 4/1/2020 9:02:04 PM
To: Olechiw, Michael [olechiw.michael@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]
CC: Moran, Robin [moran.robin@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: RE: SAFE Rule docket materials

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Nagabhushana, Vinay (NHTSA) <vinay.nagabhushana@dot.gov>
Sent: Wednesday, April 01, 2020 4:57 PM
To: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Sherwood, Todd <sherwood.todd@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Jim Tamm <james.tamm@dot.gov>; Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE Rule docket materials

Mike,

Please find attached 5 files which got missed out in yesterday's packaging.

Thanks
Vinay

From: Olechiw, Michael <olechiw.michael@epa.gov>
Sent: Wednesday, April 1, 2020 12:52 PM
To: Nagabhushana, Vinay (NHTSA) <vinay.nagabhushana@dot.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Sherwood, Todd <sherwood.todd@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Tamm, James (NHTSA) <james.tamm@dot.gov>; Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE Rule docket materials

Vinay,

Ex. 5 Deliberative Process (DP)

Thanks,

Mike

From: Nagabhushana, Vinay (NHTSA) <vinay.nagabhushana@dot.gov>
Sent: Wednesday, April 01, 2020 12:01 PM
To: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Sherwood, Todd <sherwood.todd@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Jim Tamm <james.tamm@dot.gov>
Subject: RE: SAFE Rule docket materials

Mike,

Ex. 5 Deliberative Process (DP)

Thanks
Vinay

From: Olechiw, Michael <olechiw.michael@epa.gov>
Sent: Tuesday, March 31, 2020 12:36 PM
To: Nagabhushana, Vinay (NHTSA) <vinay.nagabhushana@dot.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Sherwood, Todd <sherwood.todd@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Tamm, James (NHTSA) <james.tamm@dot.gov>
Subject: RE: SAFE Rule docket materials

Vinay,

Here is the link to the DoD site that worked a while ago. Not sure if it will work this time or not.

Mike

<https://safe.apps.mil/>

From: Nagabhushana, Vinay (NHTSA) <vinay.nagabhushana@dot.gov>
Sent: Tuesday, March 31, 2020 12:14 PM
To: Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Jim Tamm <james.tamm@dot.gov>
Subject: SAFE Rule docket materials

Chris,

As you may have heard, the SAFE rule (final) was announced today. The preamble is on the website now and FRIA and EIS will soon be in the docket (NHTSA-2018-0067).

We are in the process of uploading all the reference materials used for the final rule to the docket as well.

For EPA docket, Is there a ftp location to upload all the docket materials to enable you to download?

Let me know.

Thanks
Vinay

ALL CONTENT IN THIS EMAIL IS DELIBERATIVE – DO NOT CITE OR RELEASE



Vinay Nagabhushana

General Engineer
Fuel Economy Division

Department of Transportation

National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590
West Building (W43-444)

Office: 202-366-1452

Cell: 202-897-8923

Message

Sent: 4/1/2020 4:53:30 PM
To: Olechiw, Michael [olechiw.michael@epa.gov]; Charmley, William [charmley.william@epa.gov]
CC: Moran, Robin [moran.robin@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
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Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Olechiw, Michael <olechiw.michael@epa.gov>
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Subject: FW: SAFE Rule docket materials

Ex. 5 Deliberative Process (DP)

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Subject: RE: SAFE Rule docket materials

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Ex. 5 Deliberative Process (DP)

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To: Lieske, Christopher <lieske.christopher@epa.gov>

Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Neam, Anthony <Neam.Anthony@epa.gov>; Jim Tamm <james.tamm@dot.gov>

Subject: SAFE Rule docket materials

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Vinay

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Vinay Nagabhushana

General Engineer
Fuel Economy Division

Department of Transportation

National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590
West Building (W43-444)

Office: 202-366-1452

Cell: 202-897-8923

Message

Sent: 3/30/2020 12:57:05 PM
To: Kataoka, Mark [Kataoka.Mark@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: Docketing Requirements for the SAFE FRM - what we will need from NHTSA

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Sunday, March 29, 2020 3:04 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: Docketing Requirements for the SAFE FRM - what we will need from NHTSA
Importance: High

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Charmley, William <charmley.william@epa.gov>
Sent: March 28, 2020 5:30 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Docketing Requirements for the SAFE FRM - what we will need from NHTSA
Importance: High

Dear Sarah,

As we are preparing for signature day for the Final SAFE rule, we are getting ready for the docketing obligations for EPA. There are 3 categories of items we need to docket:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Can you reach out to Ross, or send him this email, so we can find out who from NHTSA will be sending us the material for the EPA docket? Here are the names we would like NHTSA to email material to:

olechiw.michael@epa.gov

sherwood.todd@epa.gov

bolon.kevin@epa.gov

moran.robin@epa.gov

lieske.christopher@epa.gov

neam.anthony@epa.gov

Please call or email me if you have any questions on this.

Thanks

Bill

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 4/28/2020 9:14:34 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Request

Ex. 6 Personal Privacy (PP) I'll plan on saying something at staff meeting tomorrow.

On SAFE, since this hill meeting isn't until Thursday, I would imagine we could stretch into tomorrow afternoon if needed. They're not going to need a lot of time to process the response.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, April 28, 2020 5:12 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Request

I am assuming tomorrow morning would be timely?

Ex. 6 Personal Privacy (PP)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:57 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: FW: Request

I think you would take the lead on the explanation, and I would take the "short explanation" direction and run with it.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Thanks, Katharine. I'm adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Sent: 5/29/2020 5:37:29 PM
To: Orlin, David [Orlin.David@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Thanks, David.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, May 29, 2020 1:05 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE Rule D.C. Cir. Initial Deadline-- index update

I think this summarizes our approach for the SAFE 1 record.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Friday, December 13, 2019 1:59 PM
To: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: Tuesday, December 03, 2019 10:26 AM
To: Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Re: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

Best,
Chloe

On Nov 26, 2019, at 1:34 PM, Kolman, Chloe (ENRD) <CKolman@enrd.usdoj.gov> wrote:

SAFE team -

Ex. 5 Attorney Client (AC)

Thanks -
Chloe

On Nov 25, 2019, at 7:21 PM, Kolman, Chloe (ENRD) <CKolman@enrd.usdoj.gov> wrote:

SAFE team —

Ex. 5 Attorney Client (AC)

Thanks,
Chloe

From: Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>
Sent: Monday, November 25, 2019 8:49 AM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>; Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>;
Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

Thanks,
Kerry

From: Kolman, Chloe (ENRD) [<mailto:Chloe.Kolman@usdoj.gov>]
Sent: Friday, November 22, 2019 2:29 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Orlin,
David <Orlin.David@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Winifred & Kerry –

Ex. 5 Attorney Client (AC)

Thanks,
Chloe

Chloe H. Kolman
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
chloe.kolman@usdoj.gov
202-514-9277

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, November 21, 2019 1:05 PM
To: Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>; 'Kolodziej, Kerry (NHTSA)' <Kerry.Kolodziej@dot.gov>
Cc: Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>;
Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>
Sent: Thursday, November 21, 2019 12:53 PM
To: 'Kolodziej, Kerry (NHTSA)' <Kerry.Kolodziej@dot.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; chloe.kolman@usdoj.gov
Subject: SAFE Rule D.C. Cir. Initial Deadline

Kerry and David,

Ex. 5 Attorney Client (AC)

Ben Carlisle
Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
Four Constitution Sq., Room 4.1130
Washington DC, 20002
Benjamin.carlisle@usdoj.gov

202-514-9771

<SAFE - scheduling order 19-1241.pdf>

Message

From: Kataoka, Mark [Kataoka.Mark@epa.gov]
Sent: 4/1/2020 5:05:36 PM
To: Orlin, David [Orlin.David@epa.gov]
CC: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: Re: SAFE EO12866 material has been docketed

Agree

Mark M. Kataoka
EPA OGC ARLO
202-564-5584

Sent from my iPhone

On Apr 1, 2020, at 12:58 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Moran, Robin <moran.robin@epa.gov>
Sent: Wednesday, April 01, 2020 12:55 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>
Subject: RE: SAFE EO12866 material has been docketed

Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, April 01, 2020 10:28 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Burch, Julia

<Burch.Julia@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>

Subject: RE: SAFE EO12866 material has been docketed

Thanks Andrea for weighing in on your day off – I understand this was discussed with OP and OGC mgt and I thought OTAQ/OAR (I remember Clint agreeing with the approach during a meeting).

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: April 01, 2020 10:23 AM

To: Kataoka, Mark <Kataoka.Mark@epa.gov>

Cc: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>

Subject: Re: SAFE EO12866 material has been docketed

Ex. 5 Attorney Client (AC)

Sent from my iPhone

On Apr 1, 2020, at 9:47 AM, Kataoka, Mark <Kataoka.Mark@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Kataoka, Mark

Sent: March 31, 2020 11:15 AM

To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>

Cc: Lieske, Christopher <lieske.christopher@epa.gov>

Subject: RE: SAFE EO12866 material has been docketed

Nice

From: Moran, Robin <moran.robin@epa.gov>
Sent: March 31, 2020 11:11 AM
To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>
Cc: Lieske, Christopher <lieske.christopher@epa.gov>
Subject: FYI: SAFE EO12866 material has been docketed

Huge thanks to Chris Lieske for getting the interagency review materials into the docket!

From: Lieske, Christopher <lieske.christopher@epa.gov>
Sent: Tuesday, March 31, 2020 10:55 AM
To: Moran, Robin <moran.robin@epa.gov>
Subject: RE: signed final SAFE rule

I think we are all set. Everything I have is docketed and I turned the docket entry over to the docket staff for processing. If there are more 12866 materials that surface, we'll have to create an additional docket entry for them.

<image001.jpg>

<image002.jpg>

From: Moran, Robin <moran.robin@epa.gov>
Sent: Tuesday, March 31, 2020 10:43 AM
To: Lieske, Christopher <lieske.christopher@epa.gov>
Subject: FW: signed final SAFE rule

Hi Chris, just wanted to check in on the interagency docketing....is it going OK, or do you need any help? Thanks for pulling all that together!

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Tuesday, March 31, 2020 10:19 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: signed final SAFE rule

Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Tuesday, March 31, 2020 9:57 AM
To: Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>;

Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: signed final SAFE rule

Ex. 5 Attorney Client (AC)

Thanks

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Charmley, William <charmley.william@epa.gov>

Sent: March 31, 2020 8:33 AM

To: Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>

Cc: Burch, Julia <Burch.Julia@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: FW: signed final SAFE rule

Dear all –

I received this from Sarah this morning. Ann Campbell indicates this is the signed version.

I know that the Administrators Office was working on a new approach to allow the Administrator to electronically sign final rules remotely.

When I open up this document in Word, I got a notify that “This document contains valid signatures. It says that it includes a Valid signature from Andrew Wheeler from 3/30/2020 and from Acting NHTSA Administrator James Clayton Owens from 3/30/2020.

So – I think this is it.

Bill

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, March 31, 2020 7:33 AM

To: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: Fwd: signed final SAFE rule

Begin forwarded message:

From: "Campbell, Ann" <Campbell.Ann@epa.gov>
Date: March 31, 2020 at 7:09:15 AM EDT
To: "Millett, John" <Millett.John@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Burch, Julia" <Burch.Julia@epa.gov>, "Mroz, Jessica" <mroz.jessica@epa.gov>, "DeLuca, Isabel" <DeLuca.Isabel@epa.gov>
Cc: "Lubetsky, Jonathan" <Lubetsky.Jonathan@epa.gov>, "Mcquilkin, Wendy" <Mcquilkin.Wendy@epa.gov>
Subject: FW: signed final SAFE rule

Message

From: Kataoka, Mark [Kataoka.Mark@epa.gov]
Sent: 3/29/2020 7:04:27 PM
To: Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: FW: Docketing Requirements for the SAFE FRM - what we will need from NHTSA

Importance: High

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Charmley, William <charmley.william@epa.gov>
Sent: March 28, 2020 5:30 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Docketing Requirements for the SAFE FRM - what we will need from NHTSA
Importance: High

Dear Sarah,

As we are preparing for signature day for the Final SAFE rule, we are getting ready for the docketing obligations for EPA. There are 3 categories of items we need to docket:

Ex. 5 Deliberative Process (DP)

Can you reach out to Ross, or send him this email, so we can find out who from NHTSA will be sending us the material for the EPA docket? Here are the names we would like NHTSA to email material to:

olechiw.michael@epa.gov
sherwood.todd@epa.gov
bolon.kevin@epa.gov
moran.robin@epa.gov
lieske.christopher@epa.gov
neam.anthony@epa.gov

Please call or email me if you have any questions on this.

Thanks
Bill

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 3/25/2020 10:22:47 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Thanks for taking care of this.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 6:02 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

For convenience, I have gone through and where David and Matt have suggested edits to the text I have reflected those in the attached (e.g., restored paragraphs they indicated should be retained, deleted phrases that should be deleted).

I have not touched the comment bubbles, except to add the alternative version of the last sentence to the last comment bubble for convenience/consideration. I'll be offline for a while, but per David's note I think OGC is good now and would defer to OAR on further edits and cleaning up the comment bubbles.

Thanks,

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, March 25, 2020 5:39 PM
To: Orlin, David <Orlin.David@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Suggestions from Matt and me are tracked in bubble comments highlighted in yellow in the attached version. Let me know if you have any questions about these. Once these are implemented and the internal bubble comments removed, we are good from an OGC perspective. We defer to OAR on any additional edits and transmitting to NHTSA and OIRA as you see fit.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976

fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 3:48 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka <Kataoka.Mark@epa.gov> <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 3/25/2020 9:54:02 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Good use of your time.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

On Mar 25, 2020, at 5:47 PM, Orlin, David <Orlin.David@epa.gov> wrote:

It's just cutting and pasting I think? I guess I can do that. Seems dumb.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, March 25, 2020 5:45 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Regrettably, if they are legal points I think who is you. I just closed my computer and am about to take the dog for a walk. Do you want to take a look at the comments and let me know what you think?

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

On Mar 25, 2020, at 5:41 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Do I need to email to clarify who is "implementing" these? (still waiting for virus scan so not even sure what that means)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, March 25, 2020 5:39 PM
To: Orlin, David <Orlin.David@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>

Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Suggestions from Matt and me are tracked in bubble comments highlighted in yellow in the attached version. Let me know if you have any questions about these. Once these are implemented and the internal bubble comments removed, we are good from an OGC perspective. We defer to OAR on any additional edits and transmitting to NHTSA and OIRA as you see fit.

David Fotouhi

Principal Deputy General Counsel
 Office of General Counsel
 U.S. Environmental Protection Agency
 Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 3:48 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka <Kataoka.Mark@epa.gov>
 <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20 comments EPA
Response 3-25-20 pm.docx>
<ATPFile_CE6EEE48-3663-4393-AEBB-9A55F7C1723F.token>

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 3/25/2020 8:21:23 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

This.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, March 25, 2020 4:21 PM
To: Moor, Karl <Moor.Karl@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Hi Karl,

Just for clarity, I think OGC's understanding is that OAR would be transmitting these comments on to NHTSA and/or OIRA, so I am happy to collect comments, but I am also fine if you want to wait for any additional comments from David Fotouhi, and then make your edits before sending them on to be passed back.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Moor, Karl <Moor.Karl@epa.gov>
Sent: Wednesday, March 25, 2020 4:10 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Re: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Need to get you comments

Regards, Karl

On Mar 25, 2020, at 3:47 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Sorry for the multiple emails, but I got a comment that the new last sentence was confusing because it introduced a new term ("potential disruption") so the attached version suggests a new final sentence that reads--

Ex. 5 Attorney Client (AC)

David Orlin

U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, March 25, 2020 3:40 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Moor, Karl <Moor.Karl@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: draft responses to DOJ comments on SAFE step 2 section 8.a (EPA rationale)

Attached are some suggested possible responses to DOJ's comments on the EPA rationale for the standards in the SAFE rule.

Please note that these are meant to be inclusive options for responses (i.e., we erred on the side of suggesting possible responses to allow for consideration of what to pass on). Also please note that many (if not all) of the comment bubbles are meant to be internal, not to be part of the passback to OIRA.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<SAFE Preamble Section VIII A EO12866 200306 Deliberative_3-19-20 comments EPA Response 3-25-20 pm rev.docx>

Message

From: Charmley, William [charmley.william@epa.gov]
Sent: 3/26/2020 4:22:16 PM
To: Lieske, Christopher [lieske.christopher@epa.gov]; Moran, Robin [moran.robin@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: FW: 2 items ready to be sent to NHTSA on the SAFE rule: draft preamble language on off-cycle credit program, draft reg language eliminating full-size pickup truck advanced technology credit for 2021 and later
Attachments: EPA regulatory text_SAFE rule_with full size pickup_3-26-2020.docx; SAFE Supplier Role in Off-Cycle Credits_preamble edit_draft 3-25, v3.docx

Dear Chris –

Please see this email.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks
Bill

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Thursday, March 26, 2020 12:19 PM
To: Charmley, William <charmley.william@epa.gov>
Subject: FW: 2 items ready to be sent to NHTSA on the SAFE rule: draft preamble language on off-cycle credit program, draft reg language eliminating full-size pickup truck advanced technology credit for 2021 and later

Ex. 5 Deliberative Process (DP)

From: Dunham, Sarah
Sent: Thursday, March 26, 2020 11:41 AM
To: Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Cc: Moor, Karl <Moor.Karl@epa.gov>; Charmley, William <charmley.william@epa.gov>
Subject: FW: 2 items ready to be sent to NHTSA on the SAFE rule: draft preamble language on off-cycle credit program, draft reg language eliminating full-size pickup truck advanced technology credit for 2021 and later

Ross-

Two documents attached that are ready to be integrated into the SAFE document:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks
Sarah

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 5/12/2020 3:33:50 PM
To: Buchsbaum, Seth [buchsbaum.seth@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Stahle, Susan [Stahle.Susan@epa.gov]
Subject: RE: SAFE docketing NOI

It says EO 12866 so it seems like Noelle should be brought into the loop (too)?

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Tuesday, May 12, 2020 11:20 AM
To: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

Robin set up some time with Bill tomorrow from 11-11:30 to discuss. Who else wants to be invited?

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, May 12, 2020 11:12 AM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Tuesday, May 12, 2020 10:57 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE docketing NOI
I don

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Anyone have any thoughts?

From: Kataoka, Mark <Kataoka.Mark@epa.gov>

Sent: Tuesday, May 12, 2020 10:51 AM

To: Stahle, Susan <Stahle.Susan@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

Mark M. Kataoka

Attorney

EPA OGC ARLO (2344A)

202-564-5584

From: Stahle, Susan <Stahle.Susan@epa.gov>

Sent: May 12, 2020 9:28 AM

To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>

Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

Susan Stahle

Air and Radiation Law Office

Office of General Counsel

U.S. Environmental Protection Agency

WJCN-7502B

202-564-1272

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Tuesday, May 12, 2020 6:46 AM

To: Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>

Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, May 11, 2020 4:39 PM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Friday, May 08, 2020 4:42 PM
To: Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, May 8, 2020 4:40 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: FW: SAFE docketing NOI

Interesting—an NOI for a deadline suit for failure to docket interagency review materials under 307

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Friday, May 08, 2020 4:34 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: SAFE docketing NOI

FYI

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 5/12/2020 3:17:26 PM
To: Stahle, Susan [Stahle.Susan@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Subject: RE: SAFE docketing NOI

I think we could argue:

Ex. 5 Attorney Client (AC)

From: Stahle, Susan <Stahle.Susan@epa.gov>
Sent: Tuesday, May 12, 2020 11:10 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
WJCN-7502B
202-564-1272

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Tuesday, May 12, 2020 10:56 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: SAFE docketing NOI

I think that is a good point, Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Tuesday, May 12, 2020 10:51 AM
To: Stahle, Susan <Stahle.Susan@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Stahle, Susan <Stahle.Susan@epa.gov>
Sent: May 12, 2020 9:28 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

This is fascinating, thanks for forwarding the NOI Andrea.

Ex. 5 Attorney Client (AC)

Susan Stahle
Air and Radiation Law Office
Office of General Counsel
U.S. Environmental Protection Agency
WJCN-7502B
202-564-1272

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Tuesday, May 12, 2020 6:46 AM
To: Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>
Subject: RE: SAFE docketing NOI

Adding in Sue as our 304 expert.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, May 11, 2020 4:39 PM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Friday, May 08, 2020 4:42 PM
To: Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, May 8, 2020 4:40 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: FW: SAFE docketing NOI

Interesting—an NOI for a deadline suit for failure to docket interagency review materials under 307

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Friday, May 08, 2020 4:34 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: SAFE docketing NOI

FYI

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 5/12/2020 2:59:04 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: SAFE docketing NOI

I like the sound of that argument.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, May 12, 2020 10:53 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

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This is fascinating, thanks for forwarding the NOI Andrea.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Susan Stahle
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Office of General Counsel
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202-564-1272

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Subject: RE: SAFE docketing NOI

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Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Friday, May 08, 2020 4:42 PM
To: Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: SAFE docketing NOI

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Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: FW: SAFE docketing NOI

Interesting—an NOI for a deadline suit for failure to docket interagency review materials under 307

David Orlin
U.S. EPA, Office of General Counsel
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From: Fotouhi, David <Fotouhi.David@epa.gov>
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To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: SAFE docketing NOI

FYI

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 4/2/2020 3:42:07 PM
To: Orlin, David [Orlin.David@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Awesome, thanks!

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, April 2, 2020 11:33 AM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

I think that's right, but thanks for the help!

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Thursday, April 02, 2020 11:11 AM
To: Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

I don't think we need to get Joan back involved then, probably?

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, April 2, 2020 11:10 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, April 02, 2020 9:41 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, April 1, 2020 11:05 AM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: April 01, 2020 11:03 AM
To: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 1, 2020 11:01 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

My recollection is it's a little ambiguous-

Ex. 5 Attorney Client (AC)**Ex. 5 Attorney Client (AC)**

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, April 01, 2020 10:49 AM
To: Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Orlin, David <Orlin.David@epa.gov>
Sent: April 01, 2020 10:45 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Adding Andrea FYI since she's been dealing with CBI and this also overlaps with 307d docketing

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, April 01, 2020 10:36 AM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: April 01, 2020 10:33 AM
To: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 1, 2020 10:17 AM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: FW: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Or we can wait and see what comes back from this....

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Olechiw, Michael <olechiw.michael@epa.gov>
Sent: Wednesday, April 01, 2020 10:04 AM
To: Jim Tamm <james.tamm@dot.gov>; Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Cc: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Orlin, David

[<Orlin.David@epa.gov>](mailto:Orlin.David@epa.gov)

Subject: Materials supplied by NHTSA for EPA docket for the SAFE FRM

Jim and Ross,

Ex. 5 Deliberative Process (DP)

Thank you,

Mike

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 1/30/2020 1:28:59 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: Re: Title II meeting: Regrets

Hello. You both are discussing some very important and complicated questions. But I think further emails are not going to help. I will ask Sam to schedule time for us to talk.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

On Jan 29, 2020, at 4:36 PM, Okoye, Winifred <Okoye.Winifred@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 3:04 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Title II meeting: Regrets

Winnie,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Wednesday, January 29, 2020 2:28 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: Title II meeting: Regrets

Ex. 5 Deliberative Process (DP)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 1:30 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Wednesday, January 29, 2020 12:39 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: Title II meeting: Regrets

Ex. 5 Deliberative Process (DP)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 3:10 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Title II meeting: Regrets

Winnie,

Ex. 5 Deliberative Process (DP)

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 3:05 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 2:57 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Deliberative Process (DP)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 2:49 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 2:42 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 2:33 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Title II meeting: Regrets

Hi David,
This is to let you know that I am unable to attend this meeting due to a conflict. I am sure we can always discuss any issues I cover at the next meet assuming they were going to come up today.

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 1/29/2020 11:00:24 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Thrift, Mike [thrift.mike@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Lee, Michael [lee.michaelg@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, January 29, 2020 5:51 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Thrift, Mike <thrift.mike@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

This is all very tiring.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, January 29, 2020 5:44 PM
To: Orlin, David <Orlin.David@epa.gov>; Thrift, Mike <thrift.mike@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

I think this goes beyond what we wrote up. But I defer to ARLO management on whether we should go back to Matt on this.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 5:34 PM
To: Thrift, Mike <thrift.mike@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Thanks all for the thoughtful, collaborative help on this document (and thanks again for the good discussion and good initial draft from Andrea).

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Seth and Mark feel free to chime in if I missed something from the discussion.

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Thrift, Mike <thrift.mike@epa.gov>
Sent: Wednesday, January 29, 2020 12:54 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, January 29, 2020 9:23 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

I added some edits/comments

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: January 29, 2020 11:44 AM
To: Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

We could ask at staff if anyone has worked on a joint rule and then follow up later if anyone has (to avoid hijacking).

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>

Sent: Wednesday, January 29, 2020 11:41 AM

To: Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Cc: Thrift, Mike <thrift.mike@epa.gov>

Subject: RE: Draft response re: SAFE

I just pinged Mike and he said he'd try to send something around later with his EPA-FAA experience.

David Orlin

U.S. EPA, Office of General Counsel

(202) 564-1222

From: Lee, Michael <lee.michaelg@epa.gov>

Sent: Wednesday, January 29, 2020 11:39 AM

To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Cc: Thrift, Mike <thrift.mike@epa.gov>

Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Mike

Michael G. Lee | U.S. Environmental Protection Agency
Office of General Counsel | (202) 564-5486

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Wednesday, January 29, 2020 11:34 AM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Cc: Thrift, Mike <thrift.mike@epa.gov>

Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

er

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, January 29, 2020 11:09 AM
To: Lee, Michael <lee.michaelg@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Lee, Michael <lee.michaelg@epa.gov>
Sent: Wednesday, January 29, 2020 10:45 AM
To: Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

David,

I agree that Andrea did a nice job encapsulating our discussion of this matter. I've added some minor suggested edits to the draft you circulated. You'll see from my comments that some of my suggestions are explicitly tentative due to my incomplete understanding of the context. Some of my suggested edits are also included in brackets and ending with a question mark because I was not completely sure if my edits might inadvertently change the intended points. I'm happy to discuss this further if that will help.

Mike

Michael G. Lee | U.S. Environmental Protection Agency
Office of General Counsel | (202) 564-5486

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 9:36 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

I thought I'd circle back to this discussion. I thought Andrea's draft was very good.

Ex. 5 Attorney Client (AC)

Do other have edits on this, or want to discuss it further (by email or in person)?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, January 23, 2020 12:46 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, January 23, 2020 12:30 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

+++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, January 22, 2020 12:07 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: Draft response re: SAFE

I took a shot and it ended up long. Not sure whether the last sentence is needed or whether to add any specific points

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 1/29/2020 11:00:16 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Thrift, Mike [thrift.mike@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Lee, Michael [lee.michaelg@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Subject: RE: Draft response re: SAFE

We should at least confirm at reg review what Matt actually said. I am not inclined to do anything more than that tomorrow. Maybe we go back to him after we digest, but per David's email, this is relatively small potatoes. Welcome other views.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, January 29, 2020 5:44 PM
To: Orlin, David <Orlin.David@epa.gov>; Thrift, Mike <thrift.mike@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

I think this goes beyond what we wrote up. But I defer to ARLO management on whether we should go back to Matt on this.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 5:34 PM
To: Thrift, Mike <thrift.mike@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Thanks all for the thoughtful, collaborative help on this document (and thanks again for the good discussion and good initial draft from Andrea).

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Seth and Mark feel free to chime in if I missed something from the discussion.

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Thrift, Mike <thrift.mike@epa.gov>
Sent: Wednesday, January 29, 2020 12:54 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, January 29, 2020 9:23 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

I added some edits/comments

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: January 29, 2020 11:44 AM
To: Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

We could ask at staff if anyone has worked on a joint rule and then follow up later if anyone has (to avoid hijacking).

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 11:41 AM

To: Lee, Michael <lee.michaelg@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Lee, Michael <lee.michaelg@epa.gov>
Sent: Wednesday, January 29, 2020 11:39 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Mike

Michael G. Lee | U.S. Environmental Protection Agency
Office of General Counsel | (202) 564-5486

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, January 29, 2020 11:34 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
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Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Lee, Michael <lee.michaelg@epa.gov>**Sent:** Wednesday, January 29, 2020 10:45 AM**To:** Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>**Cc:** Thrift, Mike <thrift.mike@epa.gov>**Subject:** RE: Draft response re: SAFE

David,

I agree that Andrea did a nice job encapsulating our discussion of this matter. I've added some minor suggested edits to the draft you circulated. You'll see from my comments that some of my suggestions are explicitly tentative due to my incomplete understanding of the context. Some of my suggested edits are also included in brackets and ending with a question mark because I was not completely sure if my edits might inadvertently change the intended points. I'm happy to discuss this further if that will help.

Mike

Michael G. Lee | U.S. Environmental Protection Agency
Office of General Counsel | (202) 564-5486

From: Orlin, David <Orlin.David@epa.gov>**Sent:** Wednesday, January 29, 2020 9:36 AM**To:** Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>**Cc:** Thrift, Mike <thrift.mike@epa.gov>**Subject:** RE: Draft response re: SAFE

I thought I'd circle back to this discussion. I thought Andrea's draft was very good.

Ex. 5 Attorney Client (AC)

Do other have edits on this, or want to discuss it further (by email or in person)?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>**Sent:** Thursday, January 23, 2020 12:46 PM**To:** Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael

<lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Thursday, January 23, 2020 12:30 PM

To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael

<lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: Draft response re: SAFE

Has the example below occurred in any prior joint rulemaking effort? Just wondering if there is past practice.

Ex. 5 Attorney Client (AC)

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Wednesday, January 22, 2020 12:07 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael

<lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 1/29/2020 3:28:55 AM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: Fw: docketing MTE materials for the SAFE rule

Here's what OTAQ is saying about the docket and Hon. Senator Feinstein's comments.

From: Nelson, Karen <nelson.karen@epa.gov>
Sent: Tuesday, January 28, 2020 2:39 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: docketing MTE materials for the SAFE rule

Ex. 5 Attorney Client (AC)

-Karen

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 2:06 PM
To: Nelson, Karen <nelson.karen@epa.gov>
Subject: RE: docketing MTE materials for the SAFE rule

Here's what they say—

EPA's Index appears to exclude a letter submitted on October 23, 2018 by Senator Dianne

Feinstein and 22 other senators (Docket # EPA-HQ-OAR-2018-0283-5936).

Ex. 5 Attorney Client (AC)

From: Nelson, Karen <nelson.karen@epa.gov>
Sent: Tuesday, January 28, 2020 1:54 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: docketing MTE materials for the SAFE rule

Ex. 5 Attorney Client (AC)

Thanks!

-Karen

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 1:39 PM
To: Nelson, Karen <nelson.karen@epa.gov>
Subject: RE: docketing MTE materials for the SAFE rule

Hi Karen,
Have we found the Hon. Senator Feinstein's comment?

From: Nelson, Karen <nelson.karen@epa.gov>
Sent: Tuesday, January 28, 2020 11:37 AM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: docketing MTE materials for the SAFE rule

Doing a quick text search of the signed version of the certified index, here is what I found:

- Item 0203, the TAR-Final: included in the index at record number R-86;
- Item 0242, the revised determination: EPA Notice of Withdrawal of Final Determination, included at record number R-125;
- Item 5670, the proposed determination: the comment is listed at record number R-5670, however, it does not say whether the comment included any attachments to the comment;
- Item 5705, the final determination: the comment is listed at record number R-5705, however, it does not say whether the comment included any attachments to the comment.

Thanks!

-Karen

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 11:18 AM
To: Nelson, Karen <nelson.karen@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: docketing MTE materials for the SAFE rule

Karen,

Ex. 5 Attorney Client (AC)

David Orlin

U.S. EPA, Office of General Counsel

(202) 564-1222

From: Lieske, Christopher <lieske.christopher@epa.gov>

Sent: Tuesday, January 28, 2020 11:07 AM

To: Orlin, David <Orlin.David@epa.gov>; Moran, Robin <moran.robin@epa.gov>

Cc: Charmley, William <charmley.william@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Nelson, Karen <nelson.karen@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: RE: docketing MTE materials for the SAFE rule

Hi David –

Ex. 5 Attorney Client (AC)

Please let me know if you have any questions.

Chris

From: Orlin, David <Orlin.David@epa.gov>

Sent: Monday, January 27, 2020 5:57 PM

To: Moran, Robin <moran.robin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>

Cc: Charmley, William <charmley.william@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Nelson, Karen <nelson.karen@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: docketing MTE materials for the SAFE rule

We got a request from petitioners in the litigation on the SAFE Step 1 rule to include in the certified index the key documents for the MTE (the draft TAR, the proposed determination, the Jan 2017 final determination and the revised determination).

Ex. 5 Attorney Client (AC)

David Orlin

U.S. EPA, Office of General Counsel

(202) 564-1222

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 1/28/2020 9:50:07 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 3:23 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Title II meeting: Regrets

Yes David,

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 3:10 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Title II meeting: Regrets

Winnie,

Ex. 5 Attorney Client (AC)

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 3:05 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 2:57 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Deliberative Process (DP)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 2:49 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Title II meeting: Regrets

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 2:42 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Title II meeting: Regrets

Thanks.

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, January 28, 2020 2:33 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Title II meeting: Regrets

Hi David,

This is to let you know that I am unable to attend this meeting due to a conflict. I am sure we can always discuss any issues I cover at the next meet assuming they were going to come up today.

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 1/28/2020 5:26:37 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Draft response re: SAFE

I am fine with you sending them around without me looking first. Mike Lee also sent me a few clarity focused edits so it might be good to make it a shared doc and I can layer those in.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 12:15 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Draft response re: SAFE

I thought I'd try to get this discussion going again with the attached edits, which are mostly factual background. Do you want to look at them first, or should I just send them around? I might add Thrift to this discussion since he also does joint rulemaking and I am characterizing past practice some.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, January 23, 2020 12:46 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, January 23, 2020 12:30 PM
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Subject: RE: Draft response re: SAFE

Has the example below occurred in any prior joint rulemaking effort? Just wondering if there is past practice.

Ex. 5 Attorney Client (AC)

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Wednesday, January 22, 2020 12:07 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 1/28/2020 5:32:05 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Draft response re: SAFE

Also, I did look at this now and like your additions/edits.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, January 28, 2020 12:15 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Draft response re: SAFE

I thought I'd try to get this discussion going again with the attached edits, which are mostly factual background. Do you want to look at them first, or should I just send them around? I might add Thrift to this discussion since he also does joint rulemaking and I am characterizing past practice some.

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To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
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Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Message

From: Thrift, Mike [thrift.mike@epa.gov]
Sent: 1/29/2020 4:37:02 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 8:30 AM
To: Thrift, Mike <thrift.mike@epa.gov>
Subject: FW: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, January 29, 2020 11:09 AM
To: Lee, Michael <lee.michaelg@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

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Subject: RE: Draft response re: SAFE

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Michael G. Lee | U.S. Environmental Protection Agency
Office of General Counsel | (202) 564-5486

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Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

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Ex. 5 Attorney Client (AC)

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David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, January 23, 2020 12:46 PM
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Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

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Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

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(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Wednesday, January 22, 2020 12:07 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 1/29/2020 3:43:35 PM
To: Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Lee, Michael [lee.michaelg@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
CC: Thrift, Mike [thrift.mike@epa.gov]
Subject: RE: Draft response re: SAFE

Just kidding, Mike already did. Thanks, Mike!

From: Carrillo, Andrea
Sent: Wednesday, January 29, 2020 10:42 AM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

FYI I am adding in the edits Mike L. had sent me earlier to this sharepoint version now.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 9:36 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

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Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Do other have edits on this, or want to discuss it further (by email or in person)?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, January 23, 2020 12:46 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Thursday, January 23, 2020 12:30 PM

To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Wednesday, January 22, 2020 12:07 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 1/29/2020 3:17:32 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Draft response re: SAFE

Can you forward the Anne meeting to me? Thanks.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, January 29, 2020 9:42 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

PS I just realized there is a Sarah meeting this afternoon and an Anne meeting tomorrow. It would be great if we could wrap this up in time at least for the Anne meeting, but if not I would expect to at least give Sarah the gist of our advice.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, January 29, 2020 9:36 AM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Cc: Thrift, Mike <thrift.mike@epa.gov>
Subject: RE: Draft response re: SAFE

I thought I'd circle back to this discussion. I thought Andrea's draft was very good.

Ex. 5 Attorney Client (AC)

Do other have edits on this, or want to discuss it further (by email or in person)?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

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Sent: Thursday, January 23, 2020 12:46 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Thursday, January 23, 2020 12:30 PM

To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Sent: Wednesday, January 22, 2020 12:07 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>

Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 1/23/2020 6:05:17 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Lee, Michael [lee.michaelg@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Subject: RE: Draft response re: SAFE

Ah. Further weirdness. Hmm. Yeah, I think you're right.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, January 23, 2020 12:46 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, January 23, 2020 12:30 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

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(202) 564-5647 (o)

(202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, January 22, 2020 12:07 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 3/24/2020 9:39:17 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Ex. 5 AC/DP

(202) 564-5647 (o)
(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, March 24, 2020 5:32 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

PS I am hoping this looks like what you think David is expecting—if not maybe we can talk and reshape it tomorrow morning?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, March 24, 2020 5:22 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: DOJ comments on SAFE step section 8.A (EPA rationale)

Sorry—meant to cc you. You can see I stuck in two new footnotes (with slight edits to make the first one work as a footnote).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, March 24, 2020 5:21 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>
Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Thanks!

Ex. 5 AC/DP

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, March 24, 2020 4:10 PM
To: Moran, Robin <moran.robin@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>
Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Me too, early tomorrow.

From: Moran, Robin <moran.robin@epa.gov>
Sent: Tuesday, March 24, 2020 4:04 PM
To: Orlin, David <Orlin.David@epa.gov>; Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>
Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Hi David, I'll look at this first thing tomorrow, ~7:30am.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, March 24, 2020 3:16 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>
Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: DOJ comments on SAFE step section 8.A (EPA rationale)

Attached is Mark's and my effort to respond to DOJ comments in light of the discussion last night. Would it be possible to get a quick review of this by tomorrow morning? That would give me time to clean it up a little and send it on the OGC/OAR front office.

Note that not every comment got discussed last night so it's not clear if we were supposed to implement or ignore comments that were not discussed. I made the decision to err on the side of implementing them on the theory that it's pretty easy for someone to reject edits and restore the prior version (but it's not clear to me that the OGC front office will accept all of my suggested edits).

Ex. 5 AC/DP

Ex. 5 AC/DP

Let me know if you have any thoughts, or would like to discuss any of the proposed edits.

Thanks!

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, March 24, 2020 9:16 AM
To: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: FW: DOJ comments on SAFE step section 8.A (EPA rationale)

Dear Robin, Mike, Kevin, Todd and Chris –

Ex. 5 AC/DP

Thanks
Bill

From: Orlin, David <Orlin.David@epa.gov>
Sent: Tuesday, March 24, 2020 8:48 AM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: Re: DOJ comments on SAFE step section 8.A (EPA rationale)

Mark, Gautam and I were on the call yesterday evening to discuss the DOJ/OIRA comments on section 8.A (EPA rationale), and we agreed to try and circulate a draft that responds as best we can by tomorrow.

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

Happy to discuss further, or Mark should feel free to weigh in if I missed something.

David Orlin
(202) 564-1222

On Mar 23, 2020, at 10:32 AM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:

Thanks David. I appreciate the heads up on the meeting as as you noted it Looks like neither Bill nor I are on the invite for 5:30 today. On the subject of meetings, there are two briefings for the Administrator on the calendar on SAFE. The first is tomorrow morning at 10am, which my understanding is an EPA staff briefing for the Administrator. It looks like matt and David F are on the invite for that one. Then the second is Wednesday at 10:30 which my understanding is NHTSA is supposed to be briefing the Administrator. I do not see anyone from OGC on that invite.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, March 23, 2020 10:00 AM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: FW: DOJ comments on SAFE step section 8.A (EPA rationale)

FYI, I sent this email/document to our front office last Friday explaining that Mark had tried to annotate DOJ's written comments with additional comment bubbles reflecting their oral comments, but also noting that the document does not currently reflect all interagency comments (since some were provided by email and some in another version of the preamble).

I just got an invite to a call at 5:30 pm today with Anne, Karl, David H, Matt, and David F with a note that the "the purpose of this call is to walk through the DOJ/OIRA comments and obtain leadership direction on implementation and responses"

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Friday, March 20, 2020 4:30 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov)

<Kataoka.Mark@epa.gov>

Subject: DOJ comments on SAFE step section 8.A (EPA rationale)

Matt and David,

We received what appear to be DOJ's written comments on section 8.a (EPA rationale) of the SAFE step 2 rule yesterday, and, consistent with our discussion yesterday afternoon, we have annotated the document with comment bubbles noting comments we heard on the call in the attached document. Please note however, that DOJ's written comments were transmitted with an email from OIRA which provided the following "overarching" comments—

Ex. 5 AC/DP

In addition, the email from OIRA contained a separate copy of the full preamble which included additional interagency comments on section 8.a. It's not clear to us what agency provided those comments, and we have not to date added them into the attached document, but we could if that would be convenient (although given the current privacy settings on the document we would lose the distinction between the two sets of comments).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Sent: 4/29/2020 6:07:54 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Question on docketing

Ok, sounds fine to me

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:03 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: RE: Question on docketing

Thanks. I don't think she has seen it, but she will get to see what we send

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Sent: Wednesday, April 29, 2020 2:00 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

That sounds fine to me – not sure if Sarah has reviewed, so does your email mean she'll get a chance to see what you send?

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 1:44 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: FW: Question on docketing

I never heard from Bill, but I am planning to send this in the next 15 minutes, and then will respond to that other email chain that Sarah is on and send a copy of what we send up. Does that sound ok?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 12:01 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>
Subject: RE: Question on docketing

Thanks everyone for all the help on this! I think it's in pretty good shape but I don't know if Bill has had a chance to look at it yet, or if anyone wants to go back in for a last look.

I have to jump on a call now, but like to wrap this up between 1 and 2 if possible. If you need time past 1 pm to review please let me know.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, April 29, 2020 9:37 AM
To: Orlin, David <Orlin.David@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: Question on docketing

I see in the attached draft that we are mentioning the SAFE Part I rule – so I have added Karl Simon for his input/awareness.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 8:35 AM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

As promised here is my attempt at drafting up a fairly short explanation of our docketing approach to SAFE and the rationale for it, per the request of the OGC front office. I have tried to share it as a one drive document for convenience but if that didn't work please let me know.

Ex. 5 Attorney Client (AC)

I need to send this up today so comments this morning would be appreciated.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, April 28, 2020 5:09 PM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Mark Kataoka (<Kataoka.Mark@epa.gov>) <Kataoka.Mark@epa.gov>; Seth Buchsbaum (<buchsbaum.seth@epa.gov>) <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

(Leaving off Sarah for now.)

FYI we got asked by our front office to put together a description of our position on docketing for this rule and specifically whether the docketing process for this rule was completely consistent with the docketing process for prior rules. The background for the request was in this email--

Ex. 5 Deliberative Process (DP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.rob@epa.gov>
Sent: Tuesday, April 28, 2020 4:15 PM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Ex. 5 Attorney Client (AC)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, April 28, 2020 4:01 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Moran, Robin <moran.rob@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Sarah -

To the best of my knowledge, that is correct.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

I was hoping you could help confirm something for me, or point out where I am assuming something incorrectly.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Can you please confirm that? A confirmation some time tomorrow would be helpful.

Thank you
Sarah

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 4/29/2020 5:52:26 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Request

This one works on both fronts...

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 1:52 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: Request

Thanks (although I never really know what that means from you)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Wednesday, April 29, 2020 1:37 PM
To: Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Request

No comments

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 1:27 PM
To: Simon, Karl <Simon.Karl@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: Request

+ Winnie and Karl since this covers SAFE I

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 1:23 PM
To: Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>; Seth Buchsbaum (buchsbbaum.seth@epa.gov) <buchsbbaum.seth@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: FW: Request

Looking at this now

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Wednesday, April 29, 2020 12:36 PM

To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Subject: RE: Request

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>

Sent: Wednesday, April 29, 2020 12:33 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Subject: RE: Request

Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Wednesday, April 29, 2020 12:30 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Tuesday, April 28, 2020 4:52 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Will do.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Tuesday, April 28, 2020 4:45 PM

To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Thanks, Katharine. I'm adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>

Sent: Tuesday, April 28, 2020 4:39 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Fotouhi, David <Fotouhi.David@epa.gov>

Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Stahle, Susan [Stahle.Susan@epa.gov]
Sent: 4/29/2020 5:33:43 PM
To: Lee, Michael [lee.michaelg@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: RE: Question on docketing

Same for me, planning to read for awareness only. Thanks.

Susan Stahle
 Air and Radiation Law Office
 Office of General Counsel
 U.S. Environmental Protection Agency
 WJCN-7502B
 202-564-1272

From: Lee, Michael <lee.michaelg@epa.gov>
Sent: Wednesday, April 29, 2020 1:30 PM
To: Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>
Subject: RE: Question on docketing

I expected this to be an "awareness" review on my part. I just skimmed it and have no comments. Thanks for checking David. I hope I did not inadvertently slow this down.

Mike

Michael G. Lee | U.S. Environmental Protection Agency
 Office of General Counsel | (202) 564-5486

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 1:13 PM
To: Lee, Michael <lee.michaelg@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>
Subject: FW: Question on docketing

I didn't mean to jam you guys but I wasn't sure if you were planning to have comments or just looking for awareness

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 12:01 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>
Subject: RE: Question on docketing

Thanks everyone for all the help on this! I think it's in pretty good shape but I don't know if Bill has had a chance to look at it yet, or if anyone wants to go back in for a last look.

I have to jump on a call now, but like to wrap this up between 1 and 2 if possible. If you need time past 1 pm to review please let me know.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, April 29, 2020 9:37 AM
To: Orlin, David <Orlin.David@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: Question on docketing

I see in the attached draft that we are mentioning the SAFE Part I rule – so I have added Karl Simon for his input/awareness.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 8:35 AM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

As promised here is my attempt at drafting up a fairly short explanation of our docketing approach to SAFE and the rationale for it, per the request of the OGC front office. I have tried to share it as a one drive document for convenience but if that didn't work please let me know.

Ex. 5 Deliberative Process (DP)

I need to send this up today so comments this morning would be appreciated.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, April 28, 2020 5:09 PM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Mark Kataoka (<Kataoka.Mark@epa.gov>) <Kataoka.Mark@epa.gov>; Seth Buchsbaum (<buchsbaum.seth@epa.gov>) <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

(Leaving off Sarah for now.)

FYI we got asked by our front office to put together a description of our position on docketing for this rule and specifically whether the docketing process for this rule was completely consistent with the docketing process for prior rules. The background for the request was in this email--

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.rob@epa.gov>
Sent: Tuesday, April 28, 2020 4:15 PM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Ex. 5 Attorney Client (AC)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, April 28, 2020 4:01 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Moran, Robin <moran.rob@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Sarah -

To the best of my knowledge, that is correct.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

I was hoping you could help confirm something for me, or point out where I am assuming something incorrectly.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Can you please confirm that? A confirmation some time tomorrow would be helpful.

Thank you
Sarah

Message

From: Kataoka, Mark [Kataoka.Mark@epa.gov]
Sent: 4/29/2020 3:40:54 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: Request

Not sure if “similarly” works – see my comment in document

From: Orlin, David <Orlin.David@epa.gov>
Sent: April 29, 2020 11:14 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Request

Thanks. I added a sentence in the later paragraph about how things were vs how things changed to say—

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, April 29, 2020 9:57 AM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Orlin, David <Orlin.David@epa.gov>
Sent: April 29, 2020 8:40 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: FW: Request

Ex. 5 Attorney Client (AC)

thanks

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:57 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: FW: Request

I think you would take the lead on the explanation, and I would take the “short explanation” direction and run with it.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Thanks, Katharine. I’m adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Buchsbaum, Seth [buchsbaum.seth@epa.gov]
Sent: 1/17/2020 1:43:56 PM
To: Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Carrillo, Andrea [Carrillo.Andrea@epa.gov]
CC: Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: RE: 307(d) and the SAFE rule

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, January 16, 2020 6:13 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: 307(d) and the SAFE rule

A question may come up in the near future about docketing requirements for the SAFE step 2 rule.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Seth—please feel free to supplement if you understood Sarah’s question differently, because I think there was some uncertainty over the potential fact patterns.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Nelson, Karen [nelson.karen@epa.gov]
Sent: 1/6/2020 10:06:45 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: SAFE 1 Cert. Index
Attachments: SAFE 1 Certified Index_DRAFT_1.6.20.xlsx; SAFE 1 Certified Index_DRAFT 12-18.xlsx

Hi David,

Ex. 5 Attorney Client (AC)

Here's a summary of what I've done:

Ex. 5 Attorney Client (AC)

I wanted to have another quick call to discuss the changes made and to get your feedback sooner, rather than later. If you have time now to look it over and chat, I'll be at my desk until 6pm - 734-214-4657.

Thanks!
-Karen

Thank you for your time.

Sincerely,
Karen Nelson
Compliance Division
(734) 214-4657

Do not release without review. This email and any attached documents may contain information claimed as CBI, confidential attorney-client communications, privileged attorney work product, and/or privileged and confidential deliberative process material.

Message

From: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Sent: 5/20/2020 4:14:54 PM
To: Thrift, Mike [thrift.mike@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: FW: Request
Attachments: SAFE docketing explanation 042920.docx

FYI

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, April 30, 2020 1:06 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>
Subject: FW: Request

FYI, here is the final version, except we then sent an email to David suggesting that the sentence reading

Ex. 5 Attorney Client (AC)

should instead read—

Ex. 5 Attorney Client (AC)

But I don't think that matters much for your purposes.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 2:05 PM
To: Fotouhi, David <fotouhi.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Request

David,

Attached please find the short writeup on our docketing practice for joint rules with NHTSA under CAA 307(d) and our rationale for it (as well as some additional background information on how the interagency process was different for SAFE II even though the approach to docketing was the same). (Note: I think Bill Charmley may be presenting at a meeting today so I don't know if he has had a chance to review it but his staff has.)

I also took a look at the talking points you sent and they looked fine to me, but I've also asked Winnie to look them over since she covered SAFE step 1 for ARLO.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Wednesday, April 29, 2020 12:36 PM

To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Subject: RE: Request

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>

Sent: Wednesday, April 29, 2020 12:33 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Subject: RE: Request

Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Wednesday, April 29, 2020 12:30 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Tuesday, April 28, 2020 4:52 PM

To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Will do.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>

Sent: Tuesday, April 28, 2020 4:45 PM

To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Orlin, David <Orlin.David@epa.gov>

Subject: RE: Request

Thanks, Katharine. I'm adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>

Sent: Tuesday, April 28, 2020 4:39 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Cc: Fotouhi, David <Fotouhi.David@epa.gov>

Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Charmley, William [charmley.william@epa.gov]
Sent: 12/2/2019 4:04:36 PM
To: Moran, Robin [moran.robin@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: FW: NHTSA plan to transmit sections of SAFE rule

Fyi - Justin said he agrees with David on the docketing topic.

-----Original Message-----

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, December 02, 2019 10:53 AM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: RE: NHTSA plan to transmit sections of SAFE rule

Ex. 5 Attorney Client (AC)

Adding Gautam, David, and Andrea from ARLO in case I'm missing anything.

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, November 27, 2019 12:40 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: Re: NHTSA plan to transmit sections of SAFE rule

Dear Sarah

OGC will need to weigh in

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

I just had a 5 minute discussion with David Orlin,

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks
 Bill

Sent from my iPhone

> On Nov 27, 2019, at 12:25 PM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

to answer this question?

who might be the best person

>

> The sections they plan to transmit are the following:

Ex. 5 Attorney Client (AC)

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 4/28/2020 9:17:14 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: FW: Question on docketing

PS Gautam confirmed tomorrow morning, or even afternoon, was fine to turn this around. Let me know if you think it doesn't really belong with you!

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Tuesday, April 28, 2020 5:09 PM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>; Seth Buchsbaum (buchsbaum.seth@epa.gov) <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

(Leaving off Sarah for now.)

FYI we got asked by our front office to put together a description of our position on docketing for this rule and specifically whether the docketing process for this rule was completely consistent with the docketing process for prior rules. The background for the request was in this email--

Ex. 5 Deliberative Process (DP)

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.robin@epa.gov>
Sent: Tuesday, April 28, 2020 4:15 PM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David

<Orlin.David@epa.gov>

Subject: RE: Question on docketing

Ex. 5 Attorney Client (AC)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>

Sent: Tuesday, April 28, 2020 4:01 PM

To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Cc: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: RE: Question on docketing

Sarah -

To the best of my knowledge, that is correct.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks

Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

I was hoping you could help confirm something for me, or point out where I am assuming something incorrectly.

Ex. 5 Deliberative Process (DP)

Thank you

Sarah

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 4/28/2020 9:04:36 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: FW: docketing exchanges with NHTSA

Fyi- let me know if you want to discuss the latest

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Monday, August 13, 2018 2:58 PM
To: Charmley, William <charmley.william@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: docketing exchanges with NHTSA

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William
Sent: Monday, August 13, 2018 2:46 PM
To: Orlin, David <Orlin.David@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Cc: Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: docketing exchanges with NHTSA

Dear David –

Chris, Robin and I did discuss this topic – here are our thoughts;

Ex. 5 Attorney Client (AC)

From: Orlin, David
Sent: Wednesday, August 01, 2018 9:01 AM

To: Lieske, Christopher <lieske.christopher@epa.gov>

Cc: Moran, Robin <moran.rob@epa.gov>; Charmley, William <charmley.william@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>

Subject: docketing exchanges with NHTSA

Chris,

Ex. 5 Attorney Client (AC)

In case it helps, it seems there are a couple different potential categories of documents here (that I can think of—I expect there are others)—

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

I don't know if this issue will come up again, but at some point can you let me know your understanding of past practice in this area?

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 5/29/2020 5:03:06 PM
To: Kataoka, Mark [Kataoka.Mark@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]
CC: chloe.kolman@usdoj.gov [Chloe.Kolman@usdoj.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Ex. 5 Attorney Client (AC)

Adding Winnie in case she wants to add anything. (Also omitting the date sounds right to me)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Friday, May 29, 2020 12:47 PM
To: Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: chloe.kolman@usdoj.gov
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

For Chris and David (ccing Chloe) –

Chloe and I discussed our plans for the index; no changes but a few addl points:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: May 28, 2020 3:18 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Great. Let's check in briefly tomorrow at 11:30 just to make sure there are no loose ends? We can use my call-in:

Ex. 6 Personal Privacy (PP)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Thursday, May 28, 2020 2:47 PM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>
Cc: Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

I am available anytime tomorrow (9:00-3:30).

Chris L of OTAQ will check Anne Idsal's (and others') schedule.

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: May 28, 2020 1:18 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Re: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Thanks, Mark - all of the notes below look good to me. I'm open tomorrow so I could talk any time (with a little forewarning so I don't accidentally disappear, like today!) but perhaps there's not much more for us to discuss? This plan looks good. The only other thing I would ask is to confirm Anne Idsal's schedule. Also to confirm

Ex. 5 Attorney Client (AC)

But happy to talk - just let me know a good time.

Chloe

On May 28, 2020, at 12:28 PM, Kataoka, Mark <Kataoka.Mark@epa.gov> wrote:

Chloe – we talked among ourselves – below in red are my notes; I can talk about it with you tomorrow (Fri) or next week

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Orlin, David <Orlin.David@epa.gov>
Sent: May 28, 2020 10:49 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; chloe.kolman@usdoj.gov
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Conference line **Ex. 6 Personal Privacy (PP)**

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Thursday, May 28, 2020 10:33 AM
To: Lieske, Christopher <lieske.christopher@epa.gov>; chloe.kolman@usdoj.gov; Orlin, David <Orlin.David@epa.gov>
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Let's do 11:30; David – can we use your call-in #?

Basic question is what if anything is different in this certified index compared to SAFE I certified index, besides adding the new final rule and supporting documents and other docketed material

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Lieske, Christopher <lieske.christopher@epa.gov>
Sent: May 28, 2020 9:22 AM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; chloe.kolman@usdoj.gov
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Those times are fine. I don't have a call-in number.

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Thursday, May 28, 2020 9:19 AM
To: chloe.kolman@usdoj.gov; Lieske, Christopher <lieske.christopher@epa.gov>
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Chris – are you available today at 11 or 11:30? And do one of you have a call-in # we can use?

Mark

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: May 27, 2020 4:15 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Hi Mark –

I've been locked up today but I could talk tomorrow at 11 or 11:30. I'm also open Monday before 3 or Tuesday anytime.

Best,
Chloe

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, May 27, 2020 11:13 AM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>
Cc: Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

Chloe,

Do you have time to talk about the EPA certified index with me and Chris Lieske of OAR/OTAQ who will be preparing the index?

Ex. 5 Attorney Client (AC)

It should be a short discussion – how about today at 2:30 or tomorrow (Thu) at 11:00 or 11:30 (though I would need to confirm with Chris), or you can suggest times early next week. Thanks

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: May 26, 2020 4:43 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; hunter.oliver@dot.gov
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; sue.chen@usdoj.gov
Subject: FW: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

SAFE 2 team --

Ex. 5 Attorney Client (AC)

Thanks!
Chloe

From: ecfnoticing@cadc.uscourts.gov <ecfnoticing@cadc.uscourts.gov>
Sent: Friday, May 22, 2020 3:18 PM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>
Subject: 20-1145 Competitive Enterprise Inst., et al v. NHTSA, et al "Order Filed (CLERK)" (NHTS-85FR24174)

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

United States Court of Appeals for District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 05/22/2020 at 3:14:57 PM EDT and filed on 05/22/2020

Case Name:	Competitive Enterprise Inst., et al v. NHTSA, et al
Case Number:	<u>20-1145</u>
Document(s):	<u>Document(s)</u>

Docket Text:

CLERK'S ORDER [1844068] filed directing the parties to file initial submissions: PETITIONER docketing statement due 06/22/2020, PETITIONER certificate as to parties due 06/22/2020, PETITIONER statement of issues due 06/22/2020, PETITIONER underlying decision due 06/22/2020, PETITIONER deferred appendix statement due 06/22/2020, PETITIONER procedural motions due 06/22/2020, PETITIONER dispositive motions due 07/06/2020, RESPONDENT entry of appearance due 06/22/2020, RESPONDENT procedural motions due 06/22/2020, RESPONDENT certified index to record due 07/06/2020, RESPONDENT dispositive motions due 07/06/2020. [20-1145]

Notice will be electronically mailed to:

Mr. Jonathan Brightbill, Deputy Assistant Attorney General: jonathan.brightbill@usdoj.gov,
shanedda.bogan@usdoj.gov
 Daniel R Dertke: daniel.dertke@usdoj.gov, efile_eds.enrd@usdoj.gov
 Sam Kazman, General Counsel: sam.kazman@cei.org
 Ms. Chloe Hamity Kolman: chloe.kolman@usdoj.gov, efile_eds.enrd@usdoj.gov
 Mr. Devin Watkins: devin.watkins@cei.org, devin_97035@yahoo.com

The following document(s) are associated with this transaction:

Document Description: Order Sent

Original Filename: /opt/ACECF/live/forms/ScottAtchue_201145_1844068_F_ISAgencyPetRevGeneral_92.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1109186823 [Date=05/22/2020] [FileNumber=1844068-0]

[4671943ddd72cfab0c7fd2c7968aa095253c8868a59b2df2d0b2eb6ed9adfa8d07e4b1693b512cc3c3b78bbe69364a0672140599f25965048e6a7d52653e658a]]

Recipients:

- [Mr. Jonathan Brightbill, Deputy Assistant Attorney General](#)
- [Daniel R Dertke](#)
- [Sam Kazman, General Counsel](#)
- [Ms. Chloe Hamity Kolman](#)
- [Mr. Devin Watkins](#)

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 3/27/2020 9:05:17 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: RE: LD GHG Team Meeting

Thanks good to know I can keep some things straight. Feel free to let Bill know we're good, or he may be willing to take more word...

Have a great weekend! Was meaning to check in with you today but it degenerated. Can't wait for this rule to be done

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Friday, March 27, 2020 5:00 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: LD GHG Team Meeting

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, March 27, 2020 3:54 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: LD GHG Team Meeting

Ex. 5 Attorney Client (AC)

I am cc'ing Andrea who covers these docketing issues for ARLO in case she wants to supplement or correct anything.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Friday, March 27, 2020 3:33 PM
To: Moran, Robin <moran.robin@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>
Subject: RE: LD GHG Team Meeting
Importance: High

Dear all –

I have not raised this yet with Sarah, but I will later today.

David and Mark –

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks
Bill

From: Moran, Robin <moran.robin@epa.gov>
Sent: Friday, March 27, 2020 3:15 PM
To: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>
Subject: RE: LD GHG Team Meeting

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, March 27, 2020 3:12 PM
To: Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>
Subject: RE: LD GHG Team Meeting

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Moran, Robin <moran.rob@epa.gov>
Sent: Friday, March 27, 2020 3:07 PM
To: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>
Subject: RE: LD GHG Team Meeting

Hi David,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Bill – if you haven’t already, can you ask Sarah to make this request?

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, March 27, 2020 2:45 PM
To: Moran, Robin <moran.rob@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: LD GHG Team Meeting

Ex. 5 Attorney Client (AC)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Moran, Robin <moran.rob@epa.gov>
Sent: Friday, March 27, 2020 2:23 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: LD GHG Team Meeting

Bill just said its not clear it will clear OMB today, maybe that will drag to Monday, so presuming signature Tues. But none of us really know for sure.

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Friday, March 27, 2020 2:20 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Moran, Robin <moran.rob@epa.gov>
Subject: RE: LD GHG Team Meeting

FYI – Robin says Tue, which seems more realistic than Mon

-----Original Appointment-----

From: Moran, Robin <moran.rob@epa.gov>
Sent: March 27, 2020 2:15 PM
To: Barba, Daniel; Bohac, Stani; Bolon, Kevin; Buchsbaum, Seth; Burch, Julia; Burke, Susan; Caffrey, Cheryl; Cherry, Jeff; Davidson, Ken; Dekraker, Paul; Doorlag, Mark; Fernandez, Antonio; French, Roberts; Helfand, Gloria; Hula, Aaron; Jackman, Dana; Kargul, John; Kataoka, Mark; Lee, Sodik; Lieske, Christopher; McDonald, Joseph; Miller, Elizabeth; Moskalik, Andrew; Neam, Anthony; Newman, Kevin; Noyce, Christian; Olechiw, Michael; Ragnauth, Shaun; Safoutin, Mike; Sarofim, Marcus; Schenk, Charles; Shelby, Michael; Sherwood, Todd; Snapp, Lisa; Stuhldreher, Mark; Watten, Asa; Wysor, Tad
Subject: LD GHG Team Meeting

When: March 30, 2020 1:00 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Skype Meeting

Team,

The SAFE rule is expected to be signed on Tuesday, 3/31. Mike and I will give you some updates on what we know has made it, or not, into the package. And share some of the more crazy stories from these past few days of trying to get the package cleared.

Hope everyone is staying well! I just realized one tiny perk to teleworking – no need to search for meeting conference rooms ☺

Join Skype Meeting

Trouble Joining? [Try Skype Web App](#)

Join by phone

Toll number:

Ex. 6 Personal Privacy (PP)

English (United States)

[Find a local number](#)

Ex. 6 Personal Privacy (PP)

[Forgot your dial-in PIN?](#) | [Help](#)

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 1/28/2020 5:15:07 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: RE: Draft response re: SAFE
Attachments: 307d docketing email draft.docx

I thought I'd try to get this discussion going again with the attached edits, which are mostly factual background. Do you want to look at them first, or should I just send them around? I might add Thrift to this discussion since he also does joint rulemaking and I am characterizing past practice some.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Thursday, January 23, 2020 12:46 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, January 23, 2020 12:30 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, January 22, 2020 12:07 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: Draft response re: SAFE

Ex. 5 Attorney Client (AC)

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 12/17/2019 2:12:14 PM
To: Nelson, Karen [nelson.karen@epa.gov]
Subject: FW: certified index for SAFE Step 1

fyi

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Monday, December 16, 2019 5:48 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: certified index for SAFE Step 1

David,

As you may know, the certified index for EPA's revocation of the CA waiver is due January 9. I wanted to update you on our plans and progress for putting the index together and see if you have any feedback. We have also provided similar information to DOJ and NHTSA in case they have feedback.

Ex. 5 Attorney Client (AC)

If you have any thoughts or questions about our approach please let us know. We are hoping to get our approach locked down this week so that when everyone is back the week of January 6 we can quickly finish preparing the index.

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 1/3/2020 12:57:21 PM
To: Nelson, Karen [nelson.karen@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Next step is to PDF but first I want to confirm if we're done, in particular to check on those highlighted items and see if we think they are late comments.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Nelson, Karen <nelson.karen@epa.gov>
Sent: Thursday, January 02, 2020 6:46 PM
To: Simon, Karl <Simon.Karl@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Hi David,
 I accepted the changes, and resaved the certified index as the final version. Also, I saved it on the CA Wavier share point. What is the next step with the Excel sheet? Does that need to get converted into PDF format and added to the PDF of the signature page?

Thanks!
 -Karen

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, January 2, 2020 5:40 PM
To: Nelson, Karen <nelson.karen@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE Rule D.C. Cir. Initial Deadline-- index update

FYI – here is what DOJ sent back on the certified index (see also the email I just sent). The changes to the certification look fine to me so we should accept all changes and use that as our document for Anne to sign.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: Thursday, January 02, 2020 2:00 PM
To: Orlin, David <Orlin.David@epa.gov>; Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>
Cc: Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Hi David –

Thanks for sending these. I've attached a slight edit to the cert page.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Dan, please weigh in if you have other thoughts.

Chloe

From: Orlin, David <Orlin.David@epa.gov>

Sent: Thursday, December 19, 2019 2:33 PM

To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>

Cc: Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>;

Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Attached is our initial draft of the certified index for the EPA action, along the lines explained below, as well as a draft certification.

If you have any comments on content or format on either document it would be great to have that by Jan 2.

Ex. 5 Attorney Client (AC)

Thanks, and happy holidays,

David Orlin

U.S. EPA, Office of General Counsel

(202) 564-1222

From: Orlin, David

Sent: Friday, December 13, 2019 1:59 PM

To: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>

Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Ex. 5 Attorney Client (AC)

Our plan currently is to include in the index to the record the following—

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: Tuesday, December 03, 2019 10:26 AM
To: Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Re: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

Dan and I will circle back with planning for a motion to expedite, which will be due 12/26.

Best,
Chloe

On Nov 26, 2019, at 1:34 PM, Kolman, Chloe (ENRD) <CKolman@enrd.usdoj.gov> wrote:

SAFE team -

Ex. 5 Attorney Client (AC)

Thanks -
Chloe

On Nov 25, 2019, at 7:21 PM, Kolman, Chloe (ENRD) <CKolman@enrd.usdoj.gov> wrote:

SAFE team --

As David brought to our attention, in one of the consolidated petitions -- 19-1241 -- the court set a later schedule for all initial deadlines.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks,
Chloe

From: Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>
Sent: Monday, November 25, 2019 8:49 AM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>; Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>;
Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

Thanks,
Kerry

From: Kolman, Chloe (ENRD) [<mailto:Chloe.Kolman@usdoj.gov>]
Sent: Friday, November 22, 2019 2:29 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>

Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Winifred & Kerry –

Ex. 5 Attorney Client (AC)

Thanks,
Chloe

Chloe H. Kolman
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
chloe.kolman@usdoj.gov
202-514-9277

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, November 21, 2019 1:05 PM
To: Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>; 'Kolodziej, Kerry (NHTSA)' <Kerry.Kolodziej@dot.gov>
Cc: Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>
Sent: Thursday, November 21, 2019 12:53 PM
To: 'Kolodziej, Kerry (NHTSA)' <Kerry.Kolodziej@dot.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; chloe.kolman@usdoj.gov
Subject: SAFE Rule D.C. Cir. Initial Deadline

Kerry and David,

Ex. 5 Attorney Client (AC)

Ben Carlisle
Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
Four Constitution Sq., Room 4.1130
Washington DC, 20002
Benjamin.carlisle@usdoj.gov
202-514-9771

<SAFE - scheduling order 19-1241.pdf>

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 1/8/2020 7:21:45 PM
To: Kolman, Chloe (ENRD) [Chloe.Kolman@usdoj.gov]; Dertke, Daniel (ENRD) [Daniel.Dertke@usdoj.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update
Attachments: SAFE 1 Certified Index_final_1.8.20.xlsx; SAFE_-_Certified Index_signed.pdf

Attached is the certified index, unless you'd like to request formatting changes—somehow we ended up with no page numbers for the first 110 pages and then pages numbers through the end (I don't think it would be too hard to fix that if you'd like us to).

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: Tuesday, January 07, 2020 11:02 PM
To: Orlin, David <Orlin.David@epa.gov>; Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

All of this sounds and looks fine to me. We only need pdfs for filing, though it would be helpful for internal purposes to have the Excel as well.

Please make sure Dan is cc'ed on whatever you send by noon Thursday; I may have to be in court in the morning and at a moot in the afternoon so he may need to file if I can't!

Thanks,
 Chloe

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, January 6, 2020 4:00 PM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Thanks Chloe.

We will try to get you some thoughts on the recon petitions later today, but in the meantime wanted to confirm a few last details on the index with you.

First, we were planning on sending you the final index documents by noon on Thursday—does that sound ok to you?

Our plan was to send PDFs of both the certification and the index, but if you'd prefer a hard copy of the certification and/or the excel file for the index let us know. I am attaching a sample of what the PDF for the index would probably look like (absent further guidance)—if you'd like us to make format changes (such as a first page title, or consistent headers or just page numbers) before sending it over let us know.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

thanks

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: Thursday, January 02, 2020 2:00 PM
To: Orlin, David <Orlin.David@epa.gov>; Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>
Cc: Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Hi David --

Thanks for sending these. I've attached a slight edit to the cert page.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Dan, please weigh in if you have other thoughts.

Chloe

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, December 19, 2019 2:33 PM
To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>
Cc: Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Attached is our initial draft of the certified index for the EPA action, along the lines explained below, as well as a draft certification.

If you have any comments on content or format on either document it would be great to have that by Jan 2.

Ex. 5 Attorney Client (AC)

Thanks, and happy holidays,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Friday, December 13, 2019 1:59 PM
To: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline-- index update

Ex. 5 Attorney Client (AC)

Our plan currently is to include in the index to the record the following—

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Kolman, Chloe (ENRD) <Chloe.Kolman@usdoj.gov>
Sent: Tuesday, December 03, 2019 10:26 AM
To: Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Re: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

Best,
Chloe

On Nov 26, 2019, at 1:34 PM, Kolman, Chloe (ENRD) <CKolman@enrd.usdoj.gov> wrote:

SAFE team -

Ex. 5 Attorney Client (AC)

Thanks -
Chloe

On Nov 25, 2019, at 7:21 PM, Kolman, Chloe (ENRD) <CKolman@enrd.usdoj.gov> wrote:

SAFE team --

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Give me a call tomorrow

morning if you believe that is unworkable —

Ex. 6 Personal Privacy (PP)

Thanks,
Chloe

From: Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>

Sent: Monday, November 25, 2019 8:49 AM

To: Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Cc: Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>; Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>; Orlin, David <Orlin.David@epa.gov>

Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

A deadline of Dec. 23 will work fine for NHTSA.

Thanks,
Kerry

From: Kolman, Chloe (ENRD) [<mailto:Chloe.Kolman@usdoj.gov>]

Sent: Friday, November 22, 2019 2:29 PM

To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Kolodziej, Kerry (NHTSA) <Kerry.Kolodziej@dot.gov>

Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Winifred & Kerry —

Ex. 5 Attorney Client (AC)

Thanks,
Chloe

—
Chloe H. Kolman
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
chloe.kolman@usdoj.gov
202-514-9277

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, November 21, 2019 1:05 PM
To: Carlisle, Benjamin (ENRD) <BCarlisle@ENRD.USDOJ.GOV>; 'Kolodziej, Kerry (NHTSA)' <Kerry.Kolodziej@dot.gov>
Cc: Dertke, Daniel (ENRD) <DDertke@ENRD.USDOJ.GOV>; Kolman, Chloe (ENRD) <CKolman@ENRD.USDOJ.GOV>;
Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE Rule D.C. Cir. Initial Deadline

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carlisle, Benjamin (ENRD) <Benjamin.Carlisle@usdoj.gov>
Sent: Thursday, November 21, 2019 12:53 PM
To: 'Kolodziej, Kerry (NHTSA)' <Kerry.Kolodziej@dot.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Dertke, Daniel (ENRD) <Daniel.Dertke@usdoj.gov>; chloe.kolman@usdoj.gov
Subject: SAFE Rule D.C. Cir. Initial Deadline

Kerry and David,

Ex. 5 Attorney Client (AC)

Ben Carlisle
Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
Four Constitution Sq., Room 4.1130
Washington DC, 20002
Benjamin.carlisle@usdoj.gov
202-514-9771

<SAFE - scheduling order 19-1241.pdf>

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 4/29/2020 6:25:32 PM
To: Moran, Robin [moran.robin@epa.gov]
Subject: RE: Question on docketing practice for the SAFE Part 2 Final Rule

No problem

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Moran, Robin <moran.robin@epa.gov>
Sent: Wednesday, April 29, 2020 2:25 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing practice for the SAFE Part 2 Final Rule

Thanks that makes sense. And sorry I didn't see your earlier email asking about Bill's review, I was on a couple calls in a row and away from email a while.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:22 PM
To: Moran, Robin <moran.robin@epa.gov>
Subject: RE: Question on docketing practice for the SAFE Part 2 Final Rule

You raise a good point and I am not sure at this point how we ended up with that sentence, but at this point I am going to wait and see if there are other edits.

thanks

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Moran, Robin <moran.robin@epa.gov>
Sent: Wednesday, April 29, 2020 2:20 PM
To: Orlin, David <Orlin.David@epa.gov>; Charmley, William <charmley.william@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: RE: Question on docketing practice for the SAFE Part 2 Final Rule

Removed Sarah – David, thanks for sharing this version you needed to send up to leadership.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>

Sent: Wednesday, April 29, 2020 2:09 PM

To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>

Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: RE: Question on docketing practice for the SAFE Part 2 Final Rule

Thanks, Bill. Attached is the summary I sent up to our front office. I appreciate the help your staff gave us, but I don't think either you or Sarah got a chance to review it so if you have revisions that you think should be reflected let me know this afternoon and I'll pass them on.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>

Sent: Wednesday, April 29, 2020 7:37 AM

To: Orlin, David <Orlin.David@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>

Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: RE: Question on docketing practice for the SAFE Part 2 Final Rule

Dear David,

I spoke with Sarah yesterday after responding in writing to her email and reading your email. Sarah asked that I include her in my response to you, as it is clear that both the OAR and OGC leadership have asked for information on the SAFE rule docketing topic for the same reason.

Yesterday, both Robin and I provided response to the specific question that Sarah asked;

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Please let us know if there are any questions on this topic.

Thanks
Bill

From: Orlin, David <Orlin.David@epa.gov>

Sent: Tuesday, April 28, 2020 5:09 PM

To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Subject: RE: Question on docketing

(Leaving off Sarah for now.)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.rob@epa.gov>
Sent: Tuesday, April 28, 2020 4:15 PM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Ex. 5 Attorney Client (AC)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, April 28, 2020 4:01 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Moran, Robin <moran.rob@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Sarah -

To the best of my knowledge, that is correct.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

Ex. 5 Attorney Client (AC)

Thank you
Sarah

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 4/29/2020 5:31:23 PM
To: Lee, Michael [lee.michaelg@epa.gov]
Subject: RE: Question on docketing

Nope, thanks

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Lee, Michael <lee.michaelg@epa.gov>
Sent: Wednesday, April 29, 2020 1:30 PM
To: Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>
Subject: RE: Question on docketing

I expected this to be an "awareness" review on my part. I just skimmed it and have no comments. Thanks for checking David. I hope I did not inadvertently slow this down.

Mike

Michael G. Lee | U.S. Environmental Protection Agency
 Office of General Counsel | (202) 564-5486

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 1:13 PM
To: Lee, Michael <lee.michaelg@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>
Subject: FW: Question on docketing

I didn't mean to jam you guys but I wasn't sure if you were planning to have comments or just looking for awareness

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 12:01 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>
Subject: RE: Question on docketing

Thanks everyone for all the help on this! I think it's in pretty good shape but I don't know if Bill has had a chance to look at it yet, or if anyone wants to go back in for a last look.

I have to jump on a call now, but like to wrap this up between 1 and 2 if possible. If you need time past 1 pm to review please let me know.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, April 29, 2020 9:37 AM
To: Orlin, David <Orlin.David@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: Question on docketing

I see in the attached draft that we are mentioning the SAFE Part I rule – so I have added Karl Simon for his input/awareness.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 8:35 AM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

As promised here is my attempt at drafting up a fairly short explanation of our docketing approach to SAFE and the rationale for it, per the request of the OGC front office. I have tried to share it as a one drive document for convenience but if that didn't work please let me know.

Ex. 5 Deliberative Process (DP)

I need to send this up today so comments this morning would be appreciated.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, April 28, 2020 5:09 PM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Mark Kataoka <Kataoka.Mark@epa.gov>; Seth Buchsbaum <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

(Leaving off Sarah for now.)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.robin@epa.gov>
Sent: Tuesday, April 28, 2020 4:15 PM
To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Ex. 5 Attorney Client (AC)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, April 28, 2020 4:01 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Question on docketing

Sarah -

Ex. 5 Attorney Client (AC)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks
Bill

-----Original Message-----

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

I was hoping you could help confirm something for me, or point out where I am assuming something incorrectly.

Ex. 5 Deliberative Process (DP)

Thank you
Sarah

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 4/29/2020 5:22:09 PM
To: Moran, Robin [moran.robin@epa.gov]
Subject: FW: Question on docketing

Robin,

I apologize if this seems like an unfair question, but I thought maybe you might know whether you think Bill has had a chance to look at this, or, if he hasn't, whether the fact that you and Chris has is enough. I vaguely recall he may have some sort of presentation to give today and I want to give him a chance but also my front office pinged me about this so I'll probably need to send it up in the next hour unless there's a good reason not to.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 12:01 PM
To: Charmley, William <charmley.william@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>
Subject: RE: Question on docketing

Thanks everyone for all the help on this! I think it's in pretty good shape but I don't know if Bill has had a chance to look at it yet, or if anyone wants to go back in for a last look.

I have to jump on a call now, but like to wrap this up between 1 and 2 if possible. If you need time past 1 pm to review please let me know.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, April 29, 2020 9:37 AM
To: Orlin, David <Orlin.David@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: Question on docketing

I see in the attached draft that we are mentioning the SAFE Part I rule – so I have added Karl Simon for his input/awareness.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 8:35 AM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin

<Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Subject: RE: Question on docketing

As promised here is my attempt at drafting up a fairly short explanation of our docketing approach to SAFE and the rationale for it, per the request of the OGC front office. I have tried to share it as a one drive document for convenience but if that didn't work please let me know.

Ex. 5 Deliberative Process (DP)

I need to send this up today so comments this morning would be appreciated.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, April 28, 2020 5:09 PM
To: Moran, Robin <moran.robin@epa.gov>; Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Mark Kataoka (Kataoka.Mark@epa.gov) <Kataoka.Mark@epa.gov>; Seth Buchsbaum (buchsbaum.seth@epa.gov) <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: Question on docketing

(Leaving off Sarah for now.)

FYI we got asked by our front office to put together a description of our position on docketing for this rule and specifically whether the docketing process for this rule was completely consistent with the docketing process for prior rules. The background for the request was in this email--

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

-----Original Message-----

From: Moran, Robin <moran.robin@epa.gov>

Sent: Tuesday, April 28, 2020 4:15 PM

To: Charmley, William <charmley.william@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Cc: Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: RE: Question on docketing

Ex. 5 Attorney Client (AC)

-----Original Message-----

From: Charmley, William <charmley.william@epa.gov>

Sent: Tuesday, April 28, 2020 4:01 PM

To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Cc: Moran, Robin <moran.robin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: RE: Question on docketing

Sarah -

To the best of my knowledge, that is correct.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Robin/Mike/Chris/David - please let us know if anyone has a different recollection. I know that Robin/Mike/Chris did not work on HD Phase 2, but they did work on the 2012 LD rule.

Thanks

Bill

-----Original Message-----


From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Tuesday, April 28, 2020 3:54 PM

To: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>

Subject: Question on docketing

Hi-

I was hoping you could help confirm something for me, or point out where I am assuming something incorrectly. 

Ex. 5 Deliberative Process (DP)

Thank you
Sarah

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 12/5/2019 5:21:50 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: putting together the certified index for SAFE Step 1

Hi Justin,

As you know, the certified index for EPA's revocation of the CA waiver is due January 9. I wanted to update you on our plans and progress for putting the index together and see what you think before we reach out to DOJ next week.

Ex. 5 Attorney Client (AC)

Our plan currently is to include in the record the following—

Ex. 5 Attorney Client (AC)

If there are other materials that you think we should include because they were considered by decisionmakers as part of the process, or materials on this list you think do not belong, please let us know. Our goal is to have an initial draft of the index done in the next week or two.

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 4/29/2020 8:38:57 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: RE: Request

PS I didn't send him a corrected version of the writeup because I thought the important thing was for him to be aware of the issue but I could.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Wednesday, April 29, 2020 4:34 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Request

Yes—I think the shorter form of the sentence is the best form, but I was also trying to illustrate how editing by committee ended up changing the meaning more than intended.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, April 29, 2020 4:15 PM
To: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 3:08 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:32 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Request

Thank you for this draft writeup; I appreciate it.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 2:05 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Request

David,

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:36 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Excellent; thank you. Would you also please take a quick look at the attached set of talking points that I drafted? Much of this is nearly verbatim from the Part 1 final rule preamble, but I nonetheless want to make sure you don't have any issues with how I've framed the rationale. Please let me know this afternoon if you have any reactions or suggestions. Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Orlin, David <Orlin.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:33 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Subject: RE: Request

Yes—aiming for 2 pm but just want to make sure we have OTAQ's signoff that we're describing some of the factual background accurately.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Wednesday, April 29, 2020 12:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Could you please aim to get us this module by 4:30pm today if possible? Thank you.

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, April 28, 2020 4:52 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Willey, Katharine <willey.katharine@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Will do.

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Thanks, Katharine. I'm adding David O. to this thread.

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Request

Ex. 5 Attorney Client (AC)

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 1/21/2020 3:45:40 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: Re: 307(d) and the SAFE rule

Can you find some time for all of us to talk?

David Orlin
(202) 564-1222

On Jan 21, 2020, at 10:21 AM, Carrillo, Andrea <Carrillo.Andrea@epa.gov> wrote:

[This rule.]

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, January 17, 2020 9:50 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: 307(d) and the SAFE rule

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Friday, January 17, 2020 9:41 AM
To: Orlin, David <Orlin.David@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: 307(d) and the SAFE rule

Ex. 5 Attorney Client (AC)

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, January 17, 2020 9:10 AM
To: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: 307(d) and the SAFE rule

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Sent: Friday, January 17, 2020 8:44 AM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Cc: Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: RE: 307(d) and the SAFE rule

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>

Sent: Thursday, January 16, 2020 6:13 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>

Cc: Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>

Subject: 307(d) and the SAFE rule

A question may come up in the near future about docketing requirements for the SAFE step 2 rule.

Ex. 5 Attorney Client (AC)

Seth—please feel free to supplement if you understood Sarah’s question differently, because I think there was some uncertainty over the potential fact patterns.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 12/2/2019 3:10:14 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
Subject: RE: NHTSA plan to transmit sections of SAFE rule

When you are back in I'd like to follow up on this because I don't think I understand

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, November 27, 2019 2:07 PM
To: Kataoka, Mark <Kataoka.Mark@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: NHTSA plan to transmit sections of SAFE rule

Ex. 5 Attorney Client (AC)

From: Kataoka, Mark <Kataoka.Mark@epa.gov>
Sent: Wednesday, November 27, 2019 1:53 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Subject: RE: NHTSA plan to transmit sections of SAFE rule

Adding Andrea

Ex. 5 Attorney Client (AC)

Mark M. Kataoka
Attorney
EPA OGC ARLO (2344A)
202-564-5584

From: Orlin, David <Orlin.David@epa.gov>
Sent: November 27, 2019 12:57 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth

<buchsbaum.seth@epa.gov>

Subject: Fwd: NHTSA plan to transmit sections of SAFE rule

Fyi

David Orlin
(202) 564-1222

Begin forwarded message:

From: "Charmley, William" <charmley.william@epa.gov>

Date: November 27, 2019 at 12:39:41 PM EST

To: "Dunham, Sarah" <Dunham.Sarah@epa.gov>

Cc: "Orlin, David" <Orlin.David@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Cook, Leila" <cook.leila@epa.gov>

Subject: Re: NHTSA plan to transmit sections of SAFE rule

Dear Sarah

Ex. 5 Attorney Client (AC)

Thanks
Bill

Sent from my iPhone

On Nov 27, 2019, at 12:25 PM, Dunham, Sarah <Dunham.Sarah@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

Sent: 4/28/2020 8:54:49 PM
To: Carrillo, Andrea [Carrillo.Andrea@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: FW: Request
Attachments: 2019-05-23 Pallone Carper-Wheeler (SAFE).pdf

Might take some effort to keep this short, but it does seem like shorter is better.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Fotouhi, David <Fotouhi.David@epa.gov>
Sent: Tuesday, April 28, 2020 4:45 PM
To: Willey, Katharine <willey.katharine@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>
Subject: RE: Request

Ex. 5 Attorney Client (AC)

David Fotouhi

Principal Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Willey, Katharine <willey.katharine@epa.gov>
Sent: Tuesday, April 28, 2020 4:39 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Request

Ex. 5 Attorney Client (AC)